

**IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)**

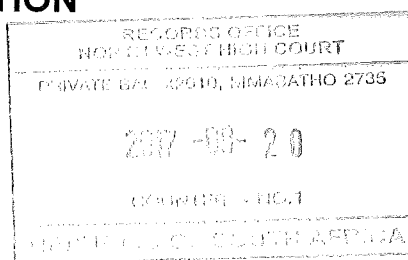
CASE NO: M420/16

In the matter between:

ROYAL BAFOKENG NATION

Applicant

and



LUCKY ELIAS KHUNOU

First Respondent

MPHO RAKGOMO

Second Respondent

DAVID MPIPI

Third Respondent

J S MODUMO

Fourth Respondent

RAMOLEBOGA MOSHUWE

Fifth Respondent

BEN MODISE

Sixth Respondent

**ALL OTHER UNKNOWN PERSONS ON
LAND DESCRIBED AS BIERKRAAL
NO 120 JQ**

Seventh Respondent

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

PLEASE TAKE NOTICE THAT the First to Sixth Respondents shall apply to the above Honourable Court on a date and time to be

arranged with the Registrar, for leave to appeal against the judgment and orders insofar as they relate to paragraphs 2 and 5 of the order made by the above Honourable Court (per M M Leeuw, JP) on 31 August 2017. Leave shall be sought to the Supreme Court of Appeal.

PLEASE TAKE FURTHER NOTICE THAT the grounds for the application for leave to appeal shall be as follows:

1. The learned judge respectfully erred in granting prayer 2 in a manner which implies that the actions of First to Sixth Respondents were unlawful.
2. The learned judge respectfully erred in not granting prayer 2 in a manner which would require both the Applicant and the Respondents to engage meaningfully on the issue of site allocation to residents of the Tsitsing community, and would give recognition to the fact that the Applicant was mostly to be blamed for the impasse.
3. The learned judge respectfully erred in finding unlawful behaviour on the side of First to Sixth Respondents as a

result of the finding that they have no recognised traditional authority. There is respectfully no legal source for the contention that only recognised traditional leadership structures can allocate residential stands in communal areas. In fact, even recognised traditional structures cannot exercise any authority over land other than that granted to them by legislation, and the Applicant has no legislative power to grant residential sites.

4. The learned judge further erred in granting a costs order against the First to Sixth Respondents when, in fact, they were substantially successful by having the rule *nisi* discharged and also in circumstances where it was in fact the First to Sixth Respondents who suggested that stand allocations should continue in terms of a process of meaningful engagement.

**SIGNED AT PRETORIA ON THIS THE 19TH DAY OF
SEPTEMBER 2017**

Original Signed By:
~~Moolman Wessels~~

MATLOGA ATTORNEYS

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c/o **VAN ROOYEN TLHAPI WESSELS Inc.**

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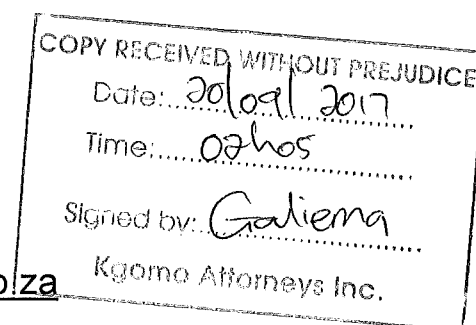
Mahikeng

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TO: **THE REGISTRAR
NORTH WEST HIGH COURT
MAHIKENG**

AND TO: **KGOMO ATTORNEYS INC**
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Received Copy hereof on
___ day of September 2017

For the Applicant