

IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO LOCAL DIVISION, THOHOYANDOU

CASE NO: 254/2026

In the matter between:

MASTER CHABALALA

1ST APPLICANT

MUSWANA ROYAL FAMILY

2ND APPLICANT

And

PREMIER OF LIMPOPO PROVINCE

1ST RESPONDENT

LIMPOPO MEC FOR COGHSTA

2ND RESPONDENT

DESMOND MALULEKE

3RD RESPONDENT

MULAMULA ROYAL FAMILY

4TH RESPONDENT

MULAMULA TRADITIONAL AUTHORITY

5TH RESPONDENT

MAGEZI JAMES CHABALALA

6TH RESPONDENT

3RD, 4TH, 5TH AND 6TH RESPONDENT'S ANSWERING AFFIDAVIT

1. I, the undersigned,

DESMOND MALULEKE

2. Do hereby make oath and state:

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3. I am an adult male person, and I am the acting senior traditional leader of Mulamula Traditional Community and the head of the Mulamula Traditional Council. A copy of my certificate of appointment is attached hereto marked as annexure L1.
4. The facts contained herein fall within my personal knowledge and are to the best of my belief true and correct. When I make legal submissions, I do so having been duly advised by my legal representatives, and if it is deemed necessary, or appropriate, the requisite legal submissions will be made at the hearing.
5. I depose to this answering affidavit in my capacity as the 3rd Respondent and further depose same on behalf of the 4th, 5th and 6th Respondent the confirmatory affidavit, and resolution are attached hereto as annexure L2, L3 and L4.

PURPOSE OF THE ANSWERING AFFIDAVIT

6. The purpose of this answering affidavit is to oppose Part A of the application issued under the above case number. From the reading of this affidavit the above honorable court will note that the Applicants have failed to make out a case for the relief they seek and to that end I find it prudent to raise the following points of law before dealing with the merits of the case.

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POINT OF LAW

LACK OF URGENCY

7. In prayer number one of the notice of motion the applicant seeks an order Dispensing with the forms and service provided for in the rules of the above honourable court and request that this matter be treated and be heard as urgent in terms of Rule 6(12(c) of the uniform Rules of the above honourable Court.
8. In terms of the Practice directives of this honourable Court, the urgent court seats on Tuesday at **10h00**.
9. The notice of motion does not align with the practice directive of the above honourable court in that the matter is set down for hearing on 17 February 2026 at **09h00** and no explanation is made in the founding affidavit as to why there has to be deviation from the practice directive which prescribes that urgent matters are heard at 10h00 on Tuesday.
10. Additionally, the applicants have failed to set out facts in the founding affidavit which renders the matter urgent. The applicants attempt to deal with urgency on paragraph 54 and 55 of the founding affidavit, however upon reading of the said paragraphs nowhere does the applicants make out a case why they may not be afforded a substantial hearing in due course should they enroll the matter on the normal roll.

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11. I humbly submit that the reason for such shortcoming is merely because this matter is not urgent, I make these submissions based on the history of the matter, which is as follows,

11.1. On **04 September 2025**¹, the 1st Applicant was notified by the premier that his appointment as acting headman of Muswana Village will automatically lapse on the date of recognition of Chabalala Magezi James as the headman of Muswana Village.

11.2. The applicant set back and did not launch this urgent application.

11.3. On **24 October 2025**, the appointment of headman Chabalala Magezi was published in the Provincial government gazette number 3747.²

11.4. At this stage the applicant did not launch any urgent application, the applicant waited for his salary to be ceased before launching this application on **03 February 2026**, a period which in aggregate exceeds four months.

11.5. I humbly submit that the applicants have failed to approach this Honourable Court, on **04 September 2025** and **24 October 2025** when the need to bring an urgent application arose and any urgency which the applicants rely on is self-created and the application should be dismissed with costs due to lack of urgency.

¹ Annexure MC5, FA

² Annexure MC 5, FA

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WHEREFORE I PRAY FOR THE POINT OF LAW TO BE UPHELD WITH COSTS ON ATTORNEY AND CLIENT SCALE.

MOOT-PRAYES

12. The applicant is requesting the above honorable Court to grant Prayers 2.1, 2.2, and prayer number 2.4 which mainly deal with the suspension of events which have already taken place, I humbly submit that the above honourable Court may not grant such prayers as they are moot.

WHEREFORE I PRAY FOR THE POINT OF LAW TO BE UPHELD WITH COSTS ON ATTORNEY AND CLIENT SCALE

LOCUS STANDI OF THE 2ND APPLICANT

13. I humbly submit that the 1st applicant does not have authority to depose this founding affidavit on behalf of the 2nd Applicant as Royal members of the 2nd Applicant did not authorize him to litigate on their behalf and further that they are in favour of the decision taken by the premier to remove the 1st applicant and replace him with the 6th Respondent.

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WHEREFORE I PRAY FOR THE POINT OF LAW TO BE UPHELD WITH COSTS ON ATTORNEY AND CLIENT SCALE .

I WILL HEREUNDER DEAL WITH THE ALLEGATIONS MENTION IN THE FOUNDING AFFIDAVIT *AD SERIATIM*.

Ad paragraph 1

14. Save to note the name of the deponent, it is denied that the 1st Applicant was nominated by the Muswana Royal Family and the 1st Applicant is put to proof thereof.

Ad paragraph 5 -10

15. Save to state that the 5th respondent is Mulamula Traditional Council, the content herein is noted.

Ad paragraph 12 - 21

16. The allegations made herein are denied.

17. I humbly submit that the version of the applicants is inconsistent with the customs and traditions of Muswana Royal family that recognizes the first house to ascend the throne as seen on the family tree from Muswani Royal Family. A copy of the family tree is attached hereto and marked as annexure L5.

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18. I wish the court to note that Gija Muswani and Risimati Thomas Chabalala served as regents until their passing. Tseléka the father to Elias Gija Muswani is the younger brother of France Hasani Sombhani Chabalala the father of Xirindi Chabalala the father of the current headman James Magezi Chabalala as clearly demonstrated from Muswani Family Tree.

19. I humbly submit that the 1st Applicant is not a suitable candidate to be the headman of Muswana Village as he was unlawfully recommended to be appointed as a headman by letter signed on the 21 February 2019 by T H Mulamula who was no longer in office taking into account that the late Hosi Mdungazi Joseph Maluleke was recognized as acting senior traditional leader with effect from the 13 January 2019.

20. On **08 July 2019**, the Mulamula Royal council addressed a letter to the Mulamula Traditional Council, the Premier and Coghsta indicating the decision of the royal family to remove the applicant and nominate the 6th Defendant to be appointed as headman of Muswana Village. A copy of the correspondence is attached hereto as annexure **L6**.

21. I wish the court to note that the 1st applicant had always carried himself in a manner which violates the customs and traditions of Mulamula Traditional Community, for instance the 1st applicant did not recognize or take lawful instructions of the 3rd, 4th and 5th Respondent, instead he violated his oath of office by referring to himself as a senior traditional leader and performing duties of a senior traditional leader and this added to the reasons why he was removed as an acting headman.

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22. This resulted in an urgent application at the Polokwane High Court under case 11813/2023 which was obtained against the 1st applicant on **05 March 2024**, interdicting him from performing certain functions which may only be performed by the 3rd Respondent. A copy of the Court order from the Polokwane High Court is attached hereto and marked as annexure **L7**. The 1st Applicant has failed to disclose this information to the above honourable Court.

23. I further wish the court to note that the 1st applicant has failed to disclose that due process was followed by the respondents for the appointment of the 6th Respondent as headman. Attached hereto as annexure **L8** is a correspondent dated **12 December 2023** which serves as proof that the *audi* rule was afforded to the 1st applicant.

24. The above honourable Court will further note that the 1st Applicant was one of the members of the Muswana royal family who took a resolution dated **17 December 2017** to recommend for the appointment of the 6th Respondent as headman. I refer the above honourable court to annexure **L9**.

AD PARAGRAPH 27 TO 56

1. Save to note the quotation of the acts, it is denied that the applicants have made out a case for the relief which they seek.
2. I humbly submit that the deponent to the confirmatory affidavit of the 2nd Applicant is not a member of Muswana Royal Family and as such does not have locus standi to act on behalf of Muswana Royal family.

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3. It is submitted that James Magezi Chabalala has been identified correctly by Muswani Royal Family on the 17 December 2017 as is seen fully on annexure L9.

4. Furthermore, the chairperspn of Muswana royal family Mr chairperson Julius Risimati Chabalala deposed to an affidavit dated **09 February 2026 (Annexure L10)**, reaffirming the position of Royal family in so far as it relates to the appointment of the 6th Respondent as a headman of Muswana Village.

5. I humbly submit that the decision taken by the premier is correct, and in line with the customs and traditions of Mulamula Traditional Community, as such the grounds raised by the applicants are without merit.

6. The 1st applicant was appointed fraudulently, he acted contrary to his term of office, the Muswana Royal family called for his removal and nominated the 6th Respondent as the rightful heir. The Polokwane High Court further interdicted him from acting against the authority of the 3rd Respondent. This I submit justify that the decision taken to remove him was procedurally fair and correct.

AD PARAGRAPH 57

7. The allegations herein are denied, the decision taken by the respondents is lawful and in compliance with the customs of Mulamula Tradional community.

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AD PARAGRAPH 57.1 to 59

8. The allegations made herein are denied.
9. The applicants have failed to attach a confirmatory affidavit of any member of the community who attended this meeting and was aggrieved by the decision of the premier to remove the 1st Applicant.

AD PARAGRAPH 60

10. The allegations made herein are noted.

AD PARAGRAPH 61.

11. The allegations herein are denied. The 6th Respondent is the rightful person appointed to occupy the position of headman of Muswana Village, and he is entitled to all the benefits that come with being headman.

AD PARAGRAPH 62 to 72.

12. The allegations made herein are denied.
13. It is denied that the 1st applicant was nominated by the Muswana Royal family. The Royal Family nominated the 6th Respondent.

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14.1 I have further presented evidence which shows that the 1st applicant is not a fit and proper person to hold office as headman of Muswana village as he conducts himself in a manner that is contrary to the customs of Mulamula Traditiona Community.

14.1 Furthermore, it is submitted that the Muswana Royal Family together with the 3rd, 4th, 5th and 6th Respondent have the authority to recommend and remove a person as headman upon following proper procedure which I submit was followed in the present matter.

14.2 The removal of the 1st applicant is valid and may not be set aside in by the above honourable court in the present matter.

14.3 The 1st applicant was enjoying his stipend while failing to perform his constitutional duties. His removal is therefore constitutional and in line with the customs of Mulamula Traditional community.

14.4 I humbly submit that the balance of convenient favors that the application be dismissed with costs on attorney and client scale.

WHEREFORE I pray that the application be dismissed with costs on attorney and client scale.

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~~Handwritten signature~~

DEPONENT

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, that it is both true and correct to the best of his knowledge and belief, that he has no objection to taking the prescribed oath and that the prescribed oath is binding on his conscience, thus signed and sworn before me at Malamulele Saps on this 12 day of FEBRUARY 2026 the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

70727848
Sgt
Musibane



COMMISSIONER OF OATHS

FULL NAMES: Mabane SHADRACK

DESIGNATION: Sergeant

ADDRESS: Malamulele Saps