

**THE CONSTITUTIONAL COURT OF SOUTH AFRICA  
(HELD AT BRAAMFONTEIN)**

**CASE NO: CCT 42/12**

In the matter between:

**PONTSO DOREEN MOTSWAGAE** First Applicant  
**14 OTHERS** Second to Fourteenth Applicants

and

**RUSTENBERG LOCAL MUNICIPALITY** First Respondent

**PROMTIQUE TR 9 CC** Second Respondent

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**FIRST RESPONDENT'S PRACTICE NOTE**

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**NAMES OF THE PARTIES AND CASE NUMBER**

1 These appear above.

## **NATURE OF THESE PROCEEDINGS**

2 This is an application for leave to appeal to the Constitutional Court against the decision of the North West High Court dismissing an interdict which the applicants sought against the first respondent, and the granting of a counter-application in favour of the Municipality in the same proceedings.

## **ISSUES TO BE ARGUED BY FIRST RESPONDENT**

3 The First Respondent will argue:

3.1 that the interests of justice do not favour the granting of leave to appeal in this matter;

3.2 The constitutional issues are not properly before this Court;

3.3 There is no merit in the grounds of appeal raised by the applicant.

## **PORTIONS OF THE RECORD NECESSARY FOR THE DETERMINATION OF THE MATTER**

4 It is necessary to read the entire record which totals approximately 425 pages but this case essentially turns on a question of law.

## **ESTIMATED DURATION**

5 The oral argument in this matter will not exceed one day.

## **SUMMARY OF FOURTH RESPONDENT'S SUBMISSIONS**

6 The Fourth Respondent will argue that it is not in the interests of justice for this Court to entertain the application for leave to appeal. It will also argue that the constitutional issue has not been properly ventilated and was raised for the first time in this Court. The first respondent will further argue that the Municipality complied with its obligations in terms of the Housing Act 107 of 1997 and the Housing Code passed to give effect to government obligations in terms of the Housing Act. The case raises issues of ownership of land in the context of the implementation of the Housing Code and how in particular, women are recognised under this statute. However, the first respondent will argue that these issues are not properly before this Court and ought therefore not to be entertained on appeal

## **AUTHORITIES UPON WHICH PARTICULAR RELIANCE WILL BE PLACED IN ORAL ARGUMENT**

7 Member of Executive Council Responsible for Local Government and Finance, KwaZulu- Natal v North Central and South Central Local Council Durban and 18 Others [1999] 3 All SA 5 N

8 S v Boesak 2001 (1) SA 912 (CC)

- 9 National Gambling Board v Premier KwaZulu-Natal and Others 2002  
(2) SA 715 (CC)
- 10 National Education Health and Allied Workers Union v UCT 2003 (3)  
SA 1 (CC)
- 11 Xingwa and Others v Volkswagen SA 2003 (4) SA 390 (CC)
- 12 Ingeldew v The Financial Services Board 2003 (4) SA 584 (CC)
- 13 Wallach v High Court of South Africa, Witwatersrand Local Division  
2003 (5) SA 273 (CC)
- 14 Port Elisabeth Municipality v Various Occupiers 2005(1)SA 217 (CC)
- 15 Van Niekerk v Van Niekerk 2008 (1) SA 76 (SCA)

**LGF PUTTER**

**N RAJAB-BUDLENDER**

CHAMBERS, SANDTON

26 SEPTEMBER 2012