IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

15/5/2014

CASE NO: 33535/13

Delete whichever is not applicable

(1) Reportable Yes / No
(2) Of interest to other Judges Yes / No
(3) Revised.

Date: 14 May 2014

Signature.....

In the matter between:

KASIMIRA TRADING 82 (PTY) LTD Applicant

and

MINISTER OF MINERAL RESOURCES First Respondent

DEPUTY DIRECTOR- GENERAL

DEPARTMENT OF MINERAL RESOURCES Second Respondent

REGIONAL MANAGER: DEPARTMENT OF

MINERAL RESOURCES Third Respondent

CARPE DIEM EXPLORATIONS (PTY) LTD Fourth Respondent

JUDGMENT

Ismail J:

[1] This application was brought before me by way of semi-urgency. In terms of part A of the notice of motion the applicant seeks an order in the following terms:

1. That the matter be heard on a semi urgent basis and that non- compliance of the uniform rules is condoned;

2. That pending the determination of the review proceedings set out in part B , the fourth respondent is:

   2.1 interdicted and restrained from continuing with its prospecting activities on the property known as Wolfberg farm187 in the district of springbok in the Northern Cape (Wolfberg);

   2.2 is to vacate Wolfberg and to ensure that all the personnel and equipment is removed.

3. Costs is awarded against those respondents that oppose the relief sought in part A;

4 Further and/ or alternative relief.

[2] Part B of the notice of motion deals with the review application in terms of Rule 53 where the applicant seeks an order in the following terms:

1. The applicant is exempt from its obligations to exhaust internal remedies , most notably the internal appeal process provided for in section 96 of the Mineral and Petroleum Resources Development Act.

2. Review the first respondent's administrative action consisting of her failure to take a decision on an internal appeal lodged with her by the applicant on 14 December 2012 in terms of section 96 of the Mineral and Petroleum Resources Development Act of 2002 against an impugned decision of the Acting Regional Manager.

3. Declaring the first respondent's aforesaid administrative action to be unlawful.

4. The impugned decision of the acting regional manager, embodied in a letter dated 9 October 2012, is reviewed and set aside.

5. Declaring that the fourth respondent has no valid prospecting right in relation to Wolfberg.
6. That the fourth respondent is ejected from Wolfberg together with its personnel; and equipment.
7. Directing that those respondents that oppose the relief sought in part b pay the costs of the Review
8. Further and/or alternative relief.

[3] The first , second and third respondents in this matter served a notice wherein they indicated that they would not oppose the application and that they would abide by the decision of the court.

[4] Only the fourth respondent opposed the application. During the course of this judgment the fourth respondent would be referred to as such or as 'Carpe Diem'.

[5] I gave an interim order in this matter on the 7 February 2014 in respect of Part A of the notice of motion. The order granted was to the following effect:

1 That pending the final determination of the review proceedings set out in part B, the fourth respondent is:

1.1 interdicted and restrained from continuing with all prospecting and/or mining activities on the property owned by the applicant known as the farm Wolfberg 187 in the district of Springbok in the Northern Cape (Wolfberg)

1.2 to immediately vacate Wolfberg and to ensure that all its personnel and equipment is removed.

2. That fourth respondent is to pay the costs of the application on a party and party scale.

Background

[6] The applicant is a private company incorporated and registered under the Company laws of the Republic of South Africa. Its principal place of business is situated on the farm Wolfberg No 187 which is situated in the district of Springbok in the Northern Cape (Wolfberg).

[7] The applicant purchased the farm Wolfberg from the Nick Kotze Family Trust. It discovered that a third party, namely the fourth respondent, was prospecting for diamonds at Wolfberg. The seller of the farm informed the applicant that the fourth respondent was prospecting on the land illegally in that it had an old prospecting licence issued to it in 2002 which was not converted in terms of the new Act and therefore lapsed. The applicant through their attorneys wrote to the fourth respondent's attorneys seeking proof of its prospecting rights to the farm and documentation indicating that that it was entitled to prospect on the premises. To this end a meeting has held between the deponent to the applicant's founding affidavit and a representative of the fourth respondent at the Masonic Hotel. The purpose of the meeting was to explore possible ways of getting the fourth

respondent of the land. One of the suggestions was for the applicant to purchase Mr Cloete's shares in the fourth respondent. This idea to purchase the shares of Mr Cloete did not materialize.

[8] The applicant's attorneys, BVZ Attorneys, on the 4 May 2012 sent a letter to the Department of Mineral Resources wherein the following was stated:

> ' Our client bought the above property from Mr Nick Kotze and the property was registered in the name of Kasimira.
>
> Carpe Diem exploration (Pty) ltd has a prospective right on t6hre portion of the farm. We are aware that the right could expire should Carpe Diem exploration not positively perform the following :
>
> 1. Negotiations with me as the owner of the farm
> 2. Illegal people on the prospective premises
> 3. Illegal mining on our part of the property,
> 4. Put up security for rehabilitation of the prospecting premises.
>
> None of the above have been met by Carpe Diem Exploration.
>
> This situation is not acceptable to our client.
>
> We urgently await your feedback on this situation before or on the 31 May 2012, after which our client will bring an application to the High Court to set aside the prospecting right of Carpe Diem ".

[9] The purpose of the letter was intended to question whether the fourth

respondent ever had a 'valid' prospective right to Wolfberg and whether that right might have lapsed, since the fourth respondent failed to comply with the four items listed in the letter referred to above.

[10] The fourth respondent in its answering affidavit raised several points against the interdict being issued. The points raised by the fourth respondent are – firstly that the applicant lacked *locus standi* to bring this application, secondly, that this court did not have the jurisdiction to adjudicate the issue, thirdly that the applicant failed to join the Director General (DG) in these proceedings. In addition thereto the fourth respondent also raised the aspect that the applicant has alternative remedies available to it and therefore the interdict should fall and be dismissed with costs including the costs of two counsel.

[11] I will deal in turn with each and every point raised by the fourth respondent hereunder.

[12] The issue of *locus standi* being that the property, Wolfberg, apart from the mere allegation in the founding affidavit that it was sold by the trust to Kasimira, no proof of the actual sale thereof was provided either in the form of the title deed or agreement of sale thereof. The fourth respondent's argument being that there was an agreement for prospective rights to the property. A contract existed between the National Mineral

Regulation (NMR) and Carpe Diem. The fourth respondent was permitted to prospect on the farm in terms of the old prospecting rights. Whereas the owner of the farm was not a party to such an agreement.

[13] The fourth respondent's submission being that the applicant had no nexus to the contract between the two parties to the prospecting contract. Regarding Part B of the application, whereby a review is sought to set aside the conversion of the old prospecting rights to the new rights, in terms of MPDA. It was submitted that the applicant could not object by virtue of the fact that the fourth respondent sought conversion in terms of the new Act prior to the applicant acquiring the property. The conversion of the old rights took place during 2011 and the applicant only acquired the property in 2012.

[14] The issue of jurisdiction raised by the fourth respondent is premised on the fact that the farm is situated in the Northern Cape, and that the prospecting rights related to a farm, which is situated outside the jurisdiction of this Court. The fourth respondent suggested that this application should have been launched in the Kimberley High Court as this Court did not have jurisdiction over this matter.

The applicant, on the other hand, submitted that the application sought in Part B of the application concerned an administrative law review as the

application is directed at the Minister of Mineral Resources [first respondent] who is based within this court's jurisdiction.

Furthermore, the internal appeal was directed to the Minister in Pretoria, who failed to deal with it. Accordingly the applicant claimed for an order in terms of section 7 (2)(c) of PAJA, that it be exempt from exhausting the internal remedy. In any event the first respondent has elected to abide the court's decision and has not opposed the review proceedings.

[15] Counsel for the applicant referred to the matter of *Dengentenge Holdings (Pty) Ltd v Southern Sphere Mining and Development Company Ltd* [2013] ZACC 48 at para [74] and [75] where Zondi J stated:

" Yet later on Mr Rocha also said in his affidavit that

'The state concedes that the rights which the state purported to award [Abrina] and [Dengetenge] could have been as a result of an administrative oversight.... Upon reflection, the prospecting rights ought not to have been granted to [Abrina] and [Dengetenge]"

[75]. The effect of Mr Rocha's affidavit was that, although the Minister had taken the view that Dengetenge could not lawfully have been granted the prospecting rights that it was granted, it was better that the Court decide all these competing claims and requested that the Court decide them. The Minister would have been aware that in terms of section 96(3) she could insist that Southern Sphere exhaust internal remedies before the Court could hear the review application but she chose the option of

and efficient for the entire matter to be resolved by means of appropriate orders granted by [the Court]." ... ..

Mr Hopkins submitted that *in casu* the Minister elected not to oppose the matter and it also agreed to abide the court's decision.

[16] The applicant submitted that this Court had jurisdiction for two reasons, firstly in terms of section 8 of PAJA a review court is vested with power to grant any order it deems just and equitable and secondly convenience dictated that a litigant cannot be expected to seek part of the relief they seek in one court and other part of their relief in another court- the *causae contenentia* doctrine. In this regard they referred to Cillier Loots & Nel- *Herbstein and Van Winsen The Civil Practice of the High Court* (5ed) at 76 and to the cases cited at footnote 263.

[17] Regarding the issue of the failure to join the Director General [DG] in this matter it was submitted that the failure to join him/her was fatal in that the decision to grant the conversion of the prospecting rights was done by the acting regional director who acquired his powers through the Director General. The failure to join the DG in these proceedings is fatal and on that ground alone the application should fail.

It was argued that the DG had a direct and substantial interest in this matter, particularly in the light of the allegations that the decision to convert the prospecting right was untoward as suggested by the applicant. Furthermore, that the right to convert the old prospecting rights had lapsed.

The applicant submitted that the internal appeal in terms of section 96(1) of the MPRDA was made to the Minister of Mineral Resources. In terms of section 96(1) (a) the appeal is only made to the Director- General if the impugned decision was taken by the regional Manager . However, in terms of section 96(1)(b) the appeal must be made to the Minister if the impugned decision was either taken by the Director-General or a designated agency. The applicant relied upon the decision of *Bengwenyama Minerals (Pty) Ltd and Others v Genorah Resources (Pty) Ltd and Others* 2012 (3) BCLR 229 (CC) where it was held that an internal appeal of a decision taken by the DDG in relation to prospecting rights is to the Minister.

[18] The fourth respondent also raised the point that the applicant did not satisfy the four basic principles relating to an interim interdict, more particularly the applicant failed to show that it did not have any alternative remedy available to it apart from launching this matter.

[19] Regarding the issue of an interim interdict, as stated in para [5] *supra,* the court granted an interim interdict. The reason for granting the order was that the applicant persuasively submitted that the court should interdict illegal conduct irrespective of whether the applicant in the review had suffered harm or not. The applicant relied upon the matter of *Roodepoort Municipality v Eastern Properties (Pty) Ltd* 1933 AD 87. The applicant submitted that the fourth respondent who had a prospecting licence was mining on the property. It was not entitled to mine, however the fourth respondent claimed that it could do so. Thereafter it made a sudden turn in its version when it said *'Carpe Diem ontken dat dit myn vir diamante op Wolfberg".* The fourth respondent thereafter alleged in its papers that "*Carpe Diem het nog nooit beweer dat dit a mynreg het"*
More significantly Carpe Diem was also utilizing water at Wolfberg for its activities in the absence of a water usage permit. The deponent to its papers, Mr Cloete, stated that it had appointed somebody to locate its water licence when it was asked to produce such a licence. The implication of that comment was that it had a water licence. The Department of Water Affairs investigated whether Carpe Diem had a such a licence and its investigation revealed that it did not possess a licence to utilize water on the farm Wolfberg for its activities.

Attached to the papers were photographs of several water tanks on the property. This clearly revealed that the fourth respondent was less than candid with the court regarding the situation of water usage and whether or not it had a licence to use water on Wolfberg, which it clearly did not have.

[20] In motion proceedings the court is bound to follow the principle set out in *Plascon Evans Paints v Van Riebeeck Paints* 1984(3) SA 623 at 634E- 635B.

" Secondly, the affidavit reveal certain disputes of fact. The appellant nevertheless sought a final interdict, ...in such a case the general rule was stated by Van Wyk J (with whom De Villiers JP and Rosenow J concurred) in *Stellenbosch Farmer's Winery Ltd v Stellenvale Winery (Pty) Ltd* 1957 (4) SA 234 (C) at 235E-G, to be:

" ...where there is a dispute as to the facts a final interdict should only be granted in notice proceedings If the facts as stated by the respondents together with the admitted facts in the applicant's affidavits justify such an order....Where it is clear that the facts, though not formally admitted, cannot be denied, they must be regarded as admitted."

Further on at 635 B-C the court added:

"Moreover, there may be exceptions to this general rule, as, for example, where the allegations or denials of the respondent are so far- fetched or clearly untenable that the Court is justified in rejecting them merely on the papers... "

The allegations of the deponent to the fourth respondents affidavit in this

regard relating to the water usage and the question of diamond mining on the premises in my view falls into this category.

[21] Mr Hopkins submitted that the court could not sit by passively and allow a party to flagrantly transgress the law.
Where a party acts in such a manner an interdict should be granted without in the absence of the four requirements usually needed for an interdict. The fourth respondent on its own admission was mining for diamonds when it did not have a licence to mine and secondly it was using water for its activities in breach of a water usage licence. Significantly it is noteworthy to mention that the deponent to the fourth respondents affidavit was not candid with the court regarding the question of water usage.

[22] It was also submitted on behalf of the applicant that its prospects of success in respect of the review proceedings were strong and that the requirement of apprehension of harm and the balance of convenience were factors are not necessary when the prospects of success are very strong- see *Olympic Passenger Services (Pty) Ltd v Ramlagan* 1957 (2) SA 383 (D).

[23] The fourth respondent suggested that the applicant had recourse to laying a charge with the South African Police Services and the Mineral Resources Board (MRB) if it was not complying with its prospecting rights and was contravening any law. The police could have investigated a criminal offense or the MRB could have suspended the fourth respondent from, operating pending the enquiry.

[24] The applicant suggested that the fourth respondent was dissipating the diamonds on the property which it was not entitled to do. The applicant averred that the fourth respondent merely had prospecting rights on the farm and that it could not mine on the property. This allegation was denied by the fourth respondent.

[25] It was submitted on behalf of Carpe Diem that in view of the applicant having other causes available to it which it could have pursued the interdict should not be granted as the balance of convenience favoured the fourth respondent and not the applicant. Should the interdict be granted the fourth respondent would have to lay off workers, transport its machinery from the farm and if the enquiry proves to be without substance it would once again have to move its machinery back to the farm at substantial costs to it.

[26] The fourth respondent submitted that even prior to the applicant purchasing the farm it was aware that the fourth respondent had prospective rights to the farm. At the meeting at the Masonic Hotel (referred to in para [7] supra) the applicant negotiated to purchase the shares in the fourth respondent. It was averred on behalf of the fourth respondent that the applicant sought to have the licence of the fourth respondent set aside by means of this review so that it could apply for its own prospecting rights licence. The applicant's motivation for bringing this application had nothing to do with administrative actions which should be set aside in terms of PAJA but rather its own self interest to prospect the property for diamonds. Furthermore, the applicant failed to comply with the internal procedure set out in terms of the act by appealing the decision to convert the licence. Instead it seeks an interdict preventing the fourth respondent from prospecting on the farm pending the finalization of the review proceedings.

[27] The fourth respondent submitted that the failure of the applicant to follow the internal appeal procedure was significant in that the applicant did not comply with the time periods set out to appeal which was 10 days and that it also failed to make out a case for condonation.

[28] The review proceedings were lodged by way of urgency during August 2013, this was in excess of the 180 days stipulated in terms of section 7 of PAJA. The applicant was accordingly out of time and it failed to make out a case for condonation.

[29] In terms of the old order, the permit was issued to the fourth respondent during October 2002 and would expire on the 21 October 2005. The permit was valid for a period of three years. The fourth respondent applied for a conversion of the old order permit on the 30 September 2005.

The Deputy Director General gave his approval for the conversion during August 2011. The applicant had been on the property from October 1995 until August 2011 when the permit was converted. That is a period of 9 years from 2002. This means that they were prospecting on the farm for six years from the time the initial period expired and the new permit was granted. The applicant submitted that the fourth respondent did not comply with the conditions of registration. The new act made it a punishable offence not to register a permit which was converted within 90 days and in addition stipulated that in the absence of registration within that period a party may not prospect in terms of the MRDPA.

[30] Mr Hopkins submitted that the DDG was firstly wrong in allowing Carpe Diem conversion of the old order rights to new order prospecting rights on 25 August 2011. By doing so the DDG gave them greater rights than they originally had in terms of the old permits. Furthermore, they had been prospecting from 2006 until today which is a period of 8 years on the property when the initial period was for a lesser duration..

[31] Carpe Diem was granted an old order prospecting permit on 8 October 2002 which was valid until 1 October 2005. The terms of its old order permit thus gave it the right to prospect for approximately thirty six (36) months.

[32] The fourth respondent prospected until the MPRDA took effect on 1 May 2004. It had enjoyed 19 months of the 36 months that it was granted on the old permit. It therefore still had 17 months remaining in terms of the old permit to prospect at Wolfberg.

[33] Carpe Diem timeously applied under the interim arrangements to the MPRDA to have its old order prospecting rights converted into new order prospecting right.

[34] In terms of item 6(1) old order prospecting rights remained valid for 2 years from the date on which the MPRDA took effect. Its old order prospecting right was therefore valid until April 2006.

[35] Counsel for the applicant submitted that according to the matter of *De Beer Consolidated Mines Limited v Regional Manager, Mineral Regulation Free State Region: Department of Minerals and Energy and Others (case no1590/2007)* a judgment of Cillie and Ebrahim JJ at page 44 thereof where the following was said:

" I conclude therefore that the duration of the applicant's old order prospecting permit is two years, calculated from the date of commencement of the MRPDA that is the 1 May 2004 and accordingly the said permit would have expired on the 30 June 2006.

[36] Carpe Diems old order prospecting rights would have expired on 30 April 2006 and it was given over and above that two year period the balance of the 'unused' time of 17 months (referred to in para [31] supra). Its rights to prospect at Wolfberg would have expired on 1 December 2009.

[37] On 25 August 2011 the DDG granted the conversion and Carpe Diem was granted a right to prospect in the new order only for a period of 1 year. When the conversion was granted Carpe Diem had been prospecting at Wolfberg for approximately 9 years (from 2 October 2002 until 25 August 2011).

[38] Mr Hopkins argued that the DDG should have known that he could not grant the fourth respondent, Carpe diem, a further one year to prospect because:

(i) Carpe Diem had had already been prospecting for 9 years and section 17 (6) of MPRDA stipulates that prospecting rights in the new order is only valid for 5 years and for this reason it was impermissible for him to give it additional time over and above the 9 year it had already been prospecting;

(ii) Its old order rights had already lapsed on 30 April 2006 or at the latest on 1 December 2009 and accordingly there was no live older order to convert as at 25 August 2011; and

(iii) By granting carpe Diem another year on top of the 9 years that it already enjoyed he was effectively allowing them to prospect for 10 years which is contrary to the terms of the old order permit (which gave them 3 years) and contrary to the permissible prospecting period in the MPRDA (which permits them 5 years)

[39] On behalf of the applicant it was submitted that the DDG erred by granting Carpe Diem the conversion on 25 August 2011 and that his actions were ultra vires and that the unlawful administrative action must be set aside.

[40] Even if the DDG was correct in allowing the conversion, the failure to register the permit by Cape Diem, prevented it from prospecting on the farm in terms of the new Act.

Mr van Heerden on the other hand argued that the failure to register the new permit merely meant that the old order permit to prospect still applied and that the new order permit would only come into existence upon registration. Applicant's counsel argued that if Mr van Heerden was correct

the old order permit would apply indefinitely or as professor Dale remarked in perpetuity.

[41] Mr Hopkins submitted that Carpe Diem had to be of Wolfberg by 2009, however the Minister approved the conversion in 2011, that is two years a later and he was therefore wrong as he gave them greater rights then they were entitled to. He relied upon the decision of *Agri South Africa and Another v Afriforum and Others* [2013] ZACC 9 see paras [29 and [30] thereof.

At para [29] of the judgment the Chief justice stated:

[29] The lifespan of an old order prospecting right was two years, calculated from the coming into operation of the MPRDA. A holder was expected to lodge the right for conversion within the two year period. If the requirements were met, the Minister would have no choice but to convert the old order prospecting rigfhts into a prospecting right in terms of the MPRDA.

[30] Any old order mining right that was in force when the MPRDA took effect continued to be enjoyed by the holder for a period of five years from the date of commencement of the MPRDA. It was convertible into a new order mining right during the transitional period, subject to compliance with certain requirements. Item 6 and 7 of Schedule II to the MPRDA therefore conditionally guaranteed holders of old order prospecting rights the continued enjoyment of the equivalent of their mineral rights" (my underlining)

[42] Section 6 of Schedule II relating to the Transitional Arrangements deals with the issue of old order prospecting rights. The section reads as

follows:

" (1) subject to sub item (2) and (8) , an old order prospecting right in force immediately before this Act took effect continues in force for a period of two years from the date on which the Act took effect subject to the terms and conditions under which it was granted or issued or was deemed to have been granted or issued.

(2) A holder of an old order prospecting right must lodge the right for conversion within he period referred to in subitem (1) at the office of the Regional Manager in whose region the land I question is situated together with-

(a) the prescribed particulars of the holder;

(b) a sketch plan or diagram depicting the prospecting area for which the conversion is required, which area may not be larger than the area for which he or she holds the old order prospecting right;

(c) the name of the mineral or group of minerals for which he or she holds the old order prospecting right;

(d) an affidavit verifying that the holder is conducting or has conducted prospecting operations immediately before the Act took effect on the area of that land to which the conversion relates and setting out the periods during which such prospecting operations were conducted and the results thereof;

(e) a statement setting out a period for which the prospecting right is required, substantiated by a prospecting work programme ;

(f) information whether or not the old order prospecting right is encumbered by any mortgage bond or other right registered at the Deeds office or mining title Office;

(g) a statement setting out the terms and conditions which apply to the old order prospecting right;

(h) the original title deed in respect of the land to which the old order prospecting right relates, or a certified copy thereof;

(i) The original order right or certified copy thereof; and

(i) all prospecting information and the results thereof to which the right relates.

(3) The Minister must convert the old order prospecting right into prospecting right if the holder of the old order prospecting right-

(a) complies with the requirements of subitem (2);

(b) has conducted prospecting operations in respect of the right in question;

(c) indicates that he or she will continue to conduct such prospecting operations upon the conversion of such right;

(d) has an approved environmental management programme; and

(e) has paid the prescribed conversion fee.

(4) No terms and conditions applicable to old order prospecting rights remain in force if they are contrary to any provisions of the Constitution or this Act.

(5) The holder must lodge the right converted under subitem (3) within 90 days from the date he or she received notice of conversion at the Mineral and Petroleum Titles

Registration Office for registration and simultaneously at the Deeds Office or the Mineral and Petroleum titles Registration Office for deregistration of the old order prospecting right,

(6) If a mortgage bond has been registered in terms of the Deeds registries Act, 1937 (Act 47 of 1937), or the Mining Titles Act, 1967 (Act 16 of 1967), over the old order prospecting right, the prospecting right into which it was converted must be registered in terms of this Act subject to such mortgage bond, and the relevant registrar must make such endorsements on every relevant document and such entries in his or her registers as may be necessary in order to give effect to this subitem, without payment or transfer duty, stamp duty registration fees or charges.

(7) Upon the conversion of the old order prospecting right and registration of the prospecting right into which it was converted, the old order prospecting right ceases to exist

(8) If the holder fails to lodge the old order prospecting right for conversion before the expiry of the period referred to in subitem (1), the old order prospecting right ceases to exist. .

[43] In the circumstances of the factual matrix of this matter I am of the considered view that the decision taken by the Deputy Director General

during August 2011 to grant the fourth respondent a further period was unlawful. By then the fourth respondent had already been prospecting on the farm in excess of 9 years. The decision taken should therefore be set aside.

[44] Accordingly the review proceedings sought in part B of the Notice of Motion should succeed.

[45] In the circumstances I make the following order:

(1) The order given on the 7 February 2014 is confirmed;

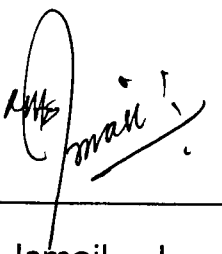
(2) The impugned decision of the acting Regional Manager is hereby set aside;

(3) The fourth respondent has no valid prospecting rights to the farm, Wolfberg

(4) The first respondent's administrative action consisting of her failure to take a decision on an internal appeal lodged with her, by the applicant on 14 December 2012, in terms of section 96 of the Mineral and Petroleum Resources Development Act of

2002 against an impugned decision of the Acting Regional Manager is hereby reviewed.

(5) Fourth respondent is ordered to pay the costs of the application.



Ismail J

APPEARANCES :

For the Applicant :	Adv K Hopkins instructed by Rudolph Botha Attorneys Centurion, Pretoria
For the fourth respondent:	Adv C N van Heerden instructed by Bouwer & Co, c/o Geldenhuys Malatji, Groenkloof, Pretoria.
Date of hearing:	7 February 2014.
Judgment delivered :	14 May 2014