



**IN THE HIGH COURT OF SOUTH AFRICA**  
**(NORTH GAUTENG, PRETORIA)**

27/2/2014

(1) REPORTABLE: YES/NO (2) OF INTEREST TO OTHER JUDGES: YES/NO (3) REVISED. 28/02/14 DATE	SIGNATURE
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**CASE NO: 38431/2012**

In the matter between:

**MIRRIAM MOUMAKWE**

**1<sup>ST</sup> APPLICANT**

**DAVID LAMOLA**

**2<sup>ND</sup> APPLICANT**

**PIET LEKALAKALA**

**3<sup>RD</sup> APPLICANT**

**WALTER LEKALAKALA**

**4<sup>TH</sup> APPLICANT**

**BETHUEL RAMPHAKA**

**5<sup>TH</sup> APPLICANT**

**JAN MALEFO**

**6<sup>TH</sup> APPLICANT**

**SAMSON THETSA**

**7<sup>TH</sup> APPLICANT**

**ALFRED MATOMO**

**8<sup>TH</sup> APPLICANT**

**DAN NQOLA**

**9<sup>TH</sup> APPLICANT**

**JOHANNES MOLEKOA**

**10<sup>TH</sup> APPLICANT**

**ISAAC MOLOBELA**

**11<sup>TH</sup> APPLICANT**

And

**GREAT NORTH LONG DISTANCE**

**TAXI ASSOCIATION**

**RESPONDENT**

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**JUDGMENT**

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**KGANYAGO AJ**

[1] The applicants have brought an application against the respondent for the relief as set out in the notice of motion which reads as follows:

1.1 Directing the respondent to immediately permit the applicants to operate a minibus taxi type service on the route and/or routes as it appears in the operating licences and in the same manner as every other member of the association;

1.2 That the respondent and its members be interdicted and restrained to interfere in any manner with the taxi operations of the applicants, conducted in accordance with their operating licences;

1.3 That the respondent be ordered to pay the cost of this application as between attorney and client;

1.4 Further and/or alternative relief.

[2] According to the applicants, they are all members of the respondent and that they are all the holders of the valid operating licence to operate on the routes as per their permits.

[3] The respondent is opposing the applicants' application and raised a point in limine. The respondent's point in limine is that some of the applicants lack the necessary locus standi to bring this application since they do not have valid operating licences or that their licences

have expired. The respondent contends further that some of the applicants does not have motor vehicles and therefore cannot operate.

- [4] Counsel for the respondent submitted that at the time the applicants initiate their application, they must all be having operating licences.
  
- [5] Counsel for the applicants submitted that it is not a requirement for one to have the operating licence before one can initiate the application. The applicants' counsel further submitted that the appropriate route which the respondent should have followed was to file a rule 7 notice.
  
- [6] In reply counsel for the respondent submitted that they are not challenging the authority of the applicants to sign the affidavit and therefore rule 7 notice is not applicable.
  
- [7] In interdict applications, the general rule is that the applicant must be a person having locus standi to apply in that he/she is having an interest in the subject matter. In the case of *Cabinet of the Transitional Govt of SWA v Eins* 1988 (3) SA 369 AD at page 388 A-E, the court said the following:  
*"A person who claims relief from a court in respect of any matter must, as a general rule, establish that he has direct interest in that matter in order to acquire the necessary locus standi to seek the relief. Reference to a few cases, mentioned in the next paragraph, will be sufficient to illustrate the point. In Dalrymple and other v Colonial Treasurer 1910 TS 372 at 390 Wessels J stated that: 'The*

*person who sues must have an interest in the subject matter of the suit and that interest must be a direct interest'. And that 'Courts of law... are not constituted for the discussion of academic questions, and they require the litigant to have only an interest, but also an interest that is not too remote!*

*A little later in his judgment (at 392) the learned Judge said that since the action popularis has disappeared,*

*'Courts of law have required the applicant to show direct interest in the subject matter of the litigation or some grievance special to himself'. In Geldenhuys and Neethling v Beuthin 1918 AD 426 Innes CJ referred to the function of courts of law in terms similar to those employed in Dalrymple's case supra. The learned Chief Justice said (at 441):*

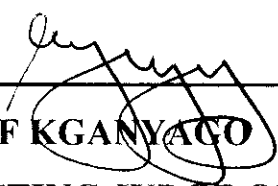
*'After all, courts of law exist for the settlement of concrete controversies and actual infringements of rights, not to pronounce upon abstract questions, or to advise upon differing contentions, however important''.*

- [8] From the papers filed it is clear that the applicants have an interest in the subject matter. They are the owners of taxis and their interest is to operate on the route that is been operated by the respondent. Whether they are having a valid taxi permit or not, is not an issue which will prevent them from initiating an application for an interdict, but will be an issue which will determine whether they are entitled to the relief of which they are seeking or not. In other words, at the end of the case, the issue whether they are having valid taxi permits, will be taken into consideration to determine whether the order which they are seeking is capable to be implemented or not.

[9] Under the circumstances, in my view, the respondent's point in limine has no merit.

[10] In the result I make the following order:

1. The respondent's point in limine is dismissed with costs.



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**M F KGANYAGO**

**ACTING JUDGE OF THE HIGH COURT**