

**IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE HIGH COURT, CAPE TOWN)**

CASE NO:

8109/2016

On Friday, 13 May 2016 at Cape Town  
Before the Honourable Justice Hlophe, Judge President

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*[Signature]*  
13/05/2016

In the matter between:

**MINISTER OF PUBLIC WORKS**

Applicant

and

**THOSE PERSONS WHOSE IDENTITIES ARE TO THE**

**APPLICANT UNKNOWN, WHO HAVE OCCUPIED**

**AND/OR ARE INTENDING / ATTEMPTING TO OCCUPY**

**AND/OR ERECT STRUCTURES ON FARM ELGIN FOREST**

**RESERVE NO: 295 Situate in the Registration Division, CALEDON,**

**GRABOUW**

First Respondent

**STATION COMMANDER, GRABOUW**

**POLICE STATION**

Second Respondent

**SHERRIFF OF THE HIGH COURT, GRABOUW**

Third Respondent

**THEEWATERSKLOOF MUNICIPALITY**

Fourth Respondent

**CITY OF CAPE TOWN**

Fifth Respondent

**MEC FOR HUMAN SETTLEMENTS, WESTERN CAPE**

Sixth Respondent

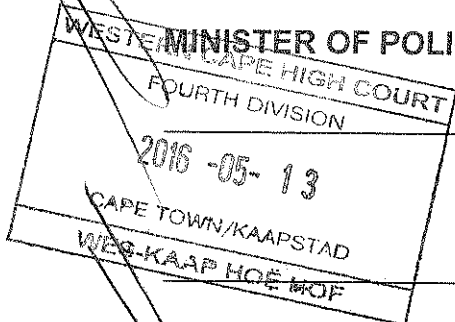
**MINISTER OF HUMAN SETTLEMENTS**

Seventh Respondent

**MINISTER OF POLICE**

Eighth Respondent

DRAFT ORDER



Having heard Counsel for the Applicant and having read the papers filed of record;

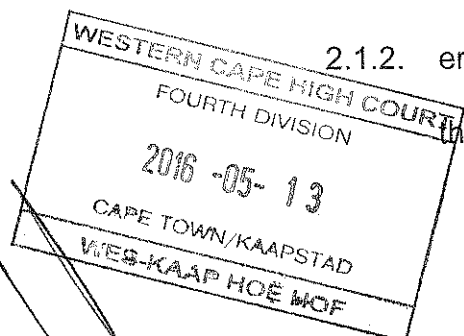
**IT IS ORDERED:**

1. That the Applicant's non-compliance with the Rules of Court especially those relating to time periods, forms and service is hereby condoned.
2. That a rule *nisi* do issue, returnable on 23 June 2016, calling on the First Respondents and any interested party to show cause, if any, why an order in the following terms should not be made final:

2.1. Interdicting and restraining those First Respondents who have not occupied the below mentioned property from:

2.1.1. entering, being upon or commencing to occupy the Applicant's property, known Farm Elgin Forest Reserve No: 295 situate in the Registration Division, Caledon, Grabouw ("the property") for the purposes of unlawfully occupying or invading the said property;

2.1.2. erecting, completing and/or occupying any structure on the property;



THE STATE ATTORNEY  
Ref.: L. NGWENYA  
Tel: (021) 441 9200

2.1.3. intimidating, harassing, assaulting, or in way interfering with the officials of the Applicant and/or the officials of the Second to Eighth Respondents;

2.1.4. inciting or encouraging other persons to settle on the property or to erect structures on the property for the purpose of unlawfully occupying or invading the property or erecting any structures on the property;

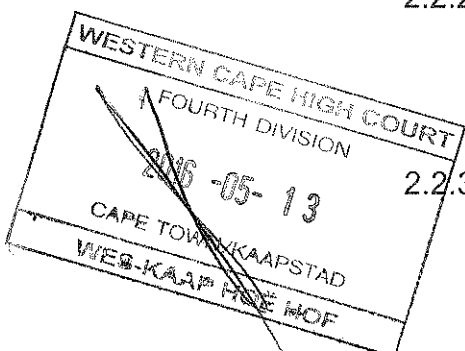
2.1.5. occupying any vacant structures on the property;

2.2. Authorising the Applicant and/or its appointed contractor, duly assisted by the Sheriff and insofar as needs be, by members of the South African Police Service to give effect to the provisions of this order, in 2.1 above, by:

2.2.1. Forthwith removing any person/s found to be in breach of this order;

2.2.2. Demolishing any structure erected on the properties subsequent to the grant of this order;

2.2.3. Removing any possessions found at or near such structures including any building materials, which possessions and/or building materials shall be kept in



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safe custody for a period of 3 calendar months by the Applicant until released to the lawful owner thereof, and take all reasonable steps in order to give effect to this order.

2.3. Interdicting and restraining those persons occupying the said property, from:

2.3.1. intimidating, harassing, assaulting, or in way interfering with the officials of the Applicant and/or the officials of the Second to Eighth Respondents;

2.3.2. inciting or encouraging other persons to settle on the property or to erect structures on the property for the purpose of unlawfully occupying or invading the property or erecting any structures on the property;

2.3.3. occupying any vacant structures on the property.

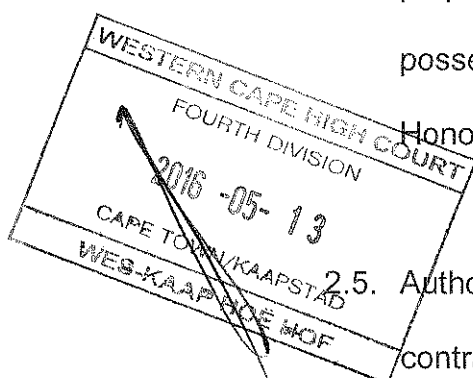
2.4. Directing that those First Respondents occupying the said property vacate the abovementioned premises, and remove their possessions therefrom, within a period to be determined by this

Honourable Court.

2.5. Authorising and directing the Applicant and/or its appointed contractor and/or Sheriff (Third Respondent) to evict the above

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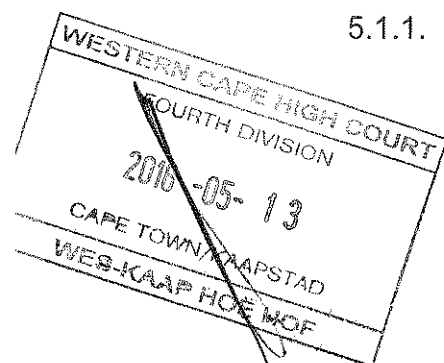


First Respondents already occupying the aforesaid property, and remove their possessions therefrom, should the First Respondents and any other persons fail to vacate the property before or on the date referred to in prayer 2.4 above.

3. Directing that paragraphs 2.1, 2.2 and 2.3 above shall operate as an interdict and interim order with immediate effect, pending the return day of the above *rule nisi*.
4. That the Notice, attached hereto as Annexure "X" is authorised and issued, informing the First, Fourth and Fifth Respondents, of the Applicant's intention to bring proceedings on 23 June 2016 at 10h00 against the First Respondents;
5. The Applicant shall serve a copy of this order and the notice, attached hereto as Annexure "X" in the following manner on the First Respondents:

5.1. By the Sheriff attending at the properties and serving a copy of the Order in the following manner:

- 5.1.1. by reading aloud the contents of this Order by a loudhailer at the properties and by causing its contents to be read aloud in IsiXhosa, English and Afrikaans;



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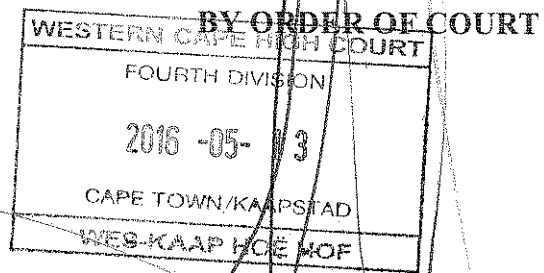
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5.1.2. by erecting a notice board at the entrance of the properties and placing a copy of this Order therein in IsiXhosa, English and Afrikaans.

6. That this order shall be served on the South African Police Services at Grabouw Police Station, Grabouw.

7. All issues of costs stand over later determination.

30 State Attorney  
CAPE TOWN



/avz

COURT REGISTRAR

STATE ATTORNEY

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**IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE HIGH COURT, CAPE TOWN)**

CASE NO: 8109/2016

In the matter between:

**MINISTER OF PUBLIC WORKS**

Applicant

and

**THOSE PERSONS WHOSE IDENTITIES ARE TO THE  
APPLICANT UNKNOWN, WHO HAVE OCCUPIED  
AND/OR ARE INTENDING / ATTEMPTING TO OCCUPY  
AND/OR ERECT STRUCTURES ON FARM ELGIN FOREST  
RESERVE NO: 295 Situate in the Registration Division,**

**CALEDON, GRABOUW**

First Respondent

**STATION COMMANDER, GRABOUW**

**POLICE STATION**

Second Respondent

**SHERRIFF OF THE HIGH COURT, GRABOUW**

Third Respondent

**THEEWATERSKLOOF MUNICIPALITY**

Fourth Respondent

**CITY OF CAPE TOWN**

Fifth Respondent

**MEC FOR HUMAN SETTLEMENTS, WESTERN CAPE**

Sixth Respondent

**NATIONAL MINISTER OF HUMAN SETTLEMENTS**

Seventh Respondent

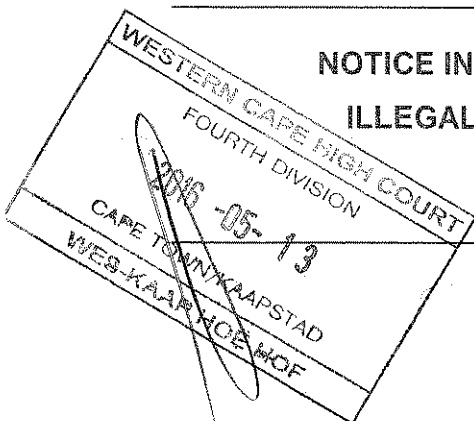
**MINISTER OF POLICE**

Eighth Respondent

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**NOTICE IN TERMS OF SECTION 4(2) OF THE PREVENTION OF  
ILLEGAL EVICTION FROM AND UNLAWFUL OCCUPATION  
OF LAND ACT NO. 19 OF 1998**

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**TO: THOSE PERSONS WHOSE IDENTITIES ARE TO THE APPLICANT UNKNOWN, WHO HAVE OCCUPIED AND/OR ARE INTENDING / ATTEMPTING TO OCCUPY AND/OR ERECT STRUCTURES ON FARM ELGIN FOREST RESERVE NO: 295 Situate in the Registration Division, CALEDON, GRABOUW**

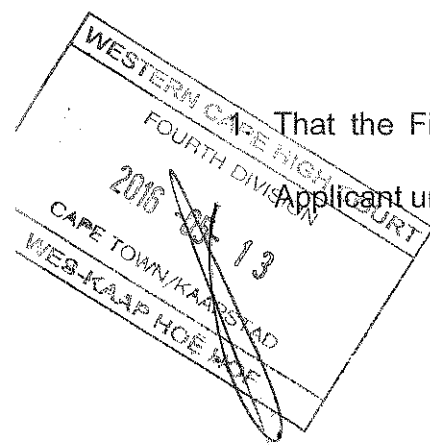
**AND TO : THE, THEEWATERSKLOOF MUNICIPALITY CARE OF THE MUNICIPAL MANAGER, 12 PLEIN STREET, CALEDON, WESTERN CAPE.**

**AND TO: CITY OF CAPE TOWN, CIVIC CENTRE, HERTZOG BOULEVARD, CAPE TOWN, WESTERN CAPE.**

**BE PLEASED TO TAKE NOTICE** that the Applicant is instituting proceedings for an order for the eviction of the First Respondents', in terms of Section 4(1) of the Prevention of Illegal Eviction from and the Unlawful Occupation of Land Act, No. 19 of 1998.

**BE PLEASED TO TAKE NOTICE FURTHER** that the Applicant will make application to this Honourable Court on 23 June 2016 at 10h00 or as soon thereafter as the matter may be heard, for an order in the following terms:

That the First Respondents and all those persons whose identities are to the Applicant unknown, who have occupied and/or are intending/ attempting to occupy





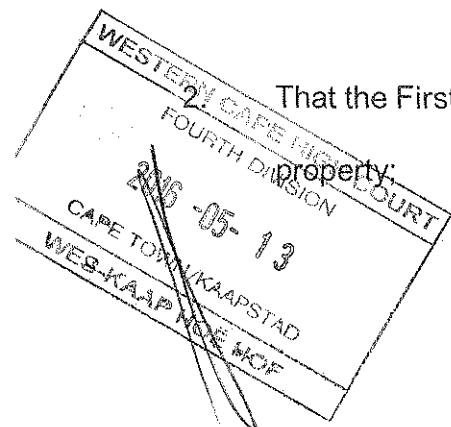
and/or erect structures on Farm Elgin Forest Reserve No: 295 situate in the Registration Division, Caledon, Grabouw, be ordered to vacate the abovementioned property, and remove their possessions therefrom, within a period to be determined by this Honourable Court.

2. That the Sheriff of the above Honourable Court be authorised and directed to evict the above First Respondents and those persons occupying the aforesaid property under them, and remove their possessions therefrom, should the Respondents and such persons fail to vacate the property before or on the date referred to in prayer 1 above.
3. That the Respondents, who oppose this application pay the costs of this application on the scale as between attorney and client.
4. Such further and/or alternative and/or related relief as the above Honourable Court may deem fit to grant in the premises.

**BE PLEASED TO TAKE NOTICE FURTHER** that the Applicant will rely on the following grounds in support of its application, namely:

1. The Applicant is the possessor/custodian in control and in charge of the property.

That the First Respondents are in unlawful occupation of the aforesaid immovable property.

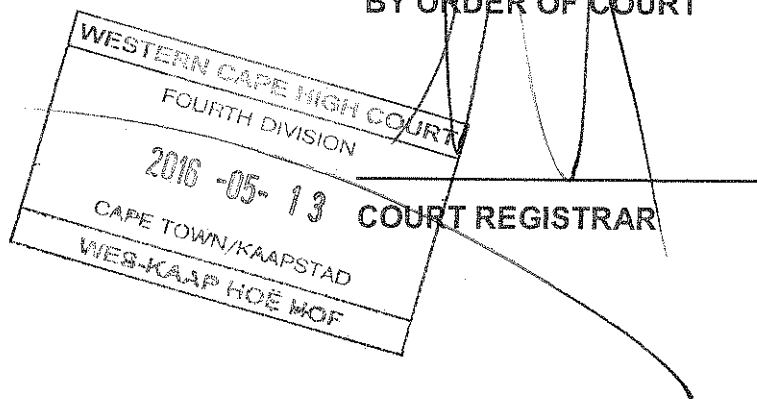


3. That First Respondents are occupying the aforesaid immovable property without the Applicant's permission and/or any other legal right which entitles them to such occupation;
4. That the First Respondents refuse and/or fail to vacate the aforementioned immovable property, despite numerous demands and requests to do so.

**TAKE NOTICE FURTHER** that the First Respondents are entitled to appear before this Honourable Court to defend this matter and, where necessary, they have the right to apply for legal aid.

DATED at **CAPE TOWN** on this                      day of **MAY**                      2016.

BY ORDER OF COURT



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