CASE NO. 9189/2013

IN THE KWAZULU-NATAL HIGH COURT, DURBAN

REPUBLIC OF SOUTH AFRICA

BEFORE THE HONOURABLE MR JUSTICE VAN ZYL

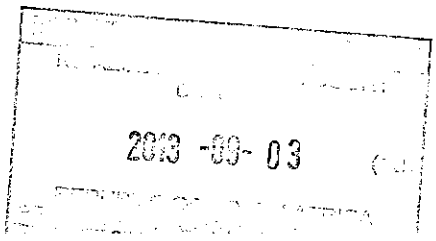
AT DURBAN ON 2ND SEPTEMBER 2013

In the matter between:

ABAHLALI BASEMJONDOLO MOVEMENT OF SOUTH AFRICA	FIRST APPLICANT
CEBSILE SBIYA	SECOND APPLICANT
NOSPHIWE DLEPHU	THIRD APPLICANT
NOKUPHIWA MSINGA	FOURTH APPLICANT
TERRESSA MZOBE	FIFTH APPLICANT
THABILE SHIBE	SIXTH APPLICANT
BONGI LUNGISILE NGWEKAZI	SEVENTH APPLICANT
ZUKO MDIVASI	EIGHTH APPLICANT
BONGANI MAGUBANE	NINTH APPLICANT
DUDUZILE DLEPHU	TENTH APPLICANT
SIPHIWASABO SBIYA	ELEVENTH APPLICANT
NOMVUSELELO MEVANA	TWELFTH APPLICANT
STHEMBILE NTOMBELA	THIRTEENTH APPLICANT
GWIJA ZAKAHLE	FOURTEENTH APPLICANT
MBONGISENI CEBEKHULU	FIFTEENTH APPLICANT
NOKULUNGA MAGOBONGO	SIXTEENTH APPLICANT
THATO MTHEMBU	SEVENTEENTH APPLICANT
DELI MPHOLO	EIGHTEENTH APPLICANT
ZWELAKHEYABANTU	NINETEENTH APPLICANT
LUYANDA BESHU	TWENTIETH APPLICANT
GABSILE SBIYA	TWENTY-FIRST APPLICANT
LUCKY MLUNGWANA	TWENTY-SECOND APPLICANT
VUKANI STHOLE	TWENTY-THIRD APPLICANT
BENZOKUHLE MPUNGOSE	TWENTY-FOURTH APPLICANT
AARON MKHALISEMI MZIME	TWENTY-FIFTH APPLICANT
MBHEKSENI NGUBANE	TWENTY-SIXTH APPLICANT
ZANDILE NGCOBO	TWENTY-SEVENTH APPLICANT
MAYA MOJOZI	TWENTY-EIGHTH APPLICANT
NTHOMBIFUTHI MDINGU	TWENTY-NINTH APPLICANT
SCELO NGIDI	THIRTIETH APPLICANT
NTOMBIKAYISE NTLOKOMBINI	THIRTY-FIRST APPLICANT

And

ETHEKWINI MUNICIPALITY	FIRST RESPONDENT



THE MEMBER OF THE EXECUTIVE COUNCIL FOR HUMAN SETTLEMENTS OF THE PROVINCE OF KWAZULU-NATAL SECOND RESPONDENT

UPON the Motion of Counsel for the Applicant and upon reading the *NOTICE OF MOTION* and the other documents filed of record.

IT IS ORDERED

1. **THAT** the rules and forms relating to service and time limits are hereby dispensed with in terms of Rule 6(12) of the Uniform Rules of Court and that this application be heard as a matter of urgency.

2. **THAT** a rule *nisi* do issue calling upon the First Respondent to show cause, if any, on the 27 day of September 2013 at 09h30, or so soon thereafter as counsel may be heard why an Order in the following terms should not be made:

   2.1 **THAT** the First Respondent is interdicted and restrained from evicting the Second to Thirty-First Applicants from the informal settlement situate at Cato Crest ("the settlement") without a valid Court Order;

   2.2 **THAT** the First Respondent is interdicted and restrained from demolishing, removing or otherwise disposing of the Second to Thirty-First Applicants' informal housing structures situate on the settlement without a valid Court Order;

   2.3 **THAT** the First Respondent is ordered to construct for those Applicants, whose informal housing structures were demolished on 1 and 2 September 2013, and who still require them, temporary habitable dwellings that afford shelter, privacy and amenities at least equivalent to those that were destroyed, and which are capable of being dismantled, at the site at which their previous informal housing structures were demolished.

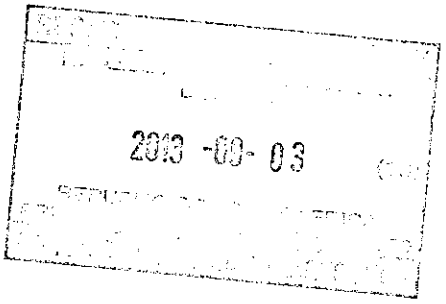
   2.4 **THAT** it is declared that the demolition of the informal housing structures carried out by the First Respondent(s) on 13 August 2013 and /or/1 and 2 September 2013 was unlawful;

3. **THAT** the First Respondent is liable for the costs of the application, on the scale as between attorney and client;

4. **THAT** the Orders set out in 2.1 and 2.2 above shall operate as an interim interdict, with immediate effect, pending the finalisation of the application.

2013 -09- 03

BY ORDER OF THE COURT

L BOTHMA
REGISTRAR

NICHOLS ATTORNEYS
/lc