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**YOUR REF: CASE NUMBER: 30123/2011**

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***JUDGMENT: CONSORTIUM FOR REFUGEES AND MIGRANTS  
IN SOUTH AFRICA v PRESIDENT OF THE REPUBLIC OF  
SOUTH AFRICA & 11 OTHERS***

Attached please find a copy of the court order .

A handwritten signature in black ink, appearing to be 'P.S.W Myburgh', written in a cursive style.

**P.S.W MYBURGH (Mr.)/SM  
REGISTRAR**



OFFICE OF THE CHIEF JUSTICE  
REPUBLIC OF SOUTH AFRICA

**THE SUPREME COURT OF APPEAL OF SOUTH AFRICA**

Case no: 075/16  
GP CASE NO: 30123/2011

**BLOEMFONTEIN WEDNESDAY the 24<sup>TH</sup> day of MAY 2017**

<b>BEFORE :</b>	<b>THE HONOURABLE MR. JUSTICE</b>	<b>CACHALIA</b>	<b>JA</b>
	<b>THE HONOURABLE MR. JUSTICE</b>	<b>WALLIS</b>	<b>JA</b>
	<b>THE HONOURABLE MR. JUSTICE</b>	<b>ZONDI</b>	<b>JA</b>
	<b>THE HONOURABLE MR. JUSTICE</b>	<b>FOURIE</b>	<b>AJA</b>
	<b>THE HONOURABLE MS. JUSTICE</b>	<b>MOLEMELA</b>	<b>AJA</b>

**In the appeal:**

**CONSORTIUM FOR REFUGEES AND MIGRANTS  
IN SOUTH AFRICA**

**APPLICANT**

**and**

**PRESIDENT OF THE REPUBLIC OF  
SOUTH AFRICA**

**1<sup>ST</sup> RESPONDENT**

**MINISTER OF HOME AFFAIRS**

**2<sup>ND</sup> RESPONDENT**

**MINISTER FOR INTERNAL RELATIONS  
AND CO-OPERATION**

**3<sup>RD</sup> RESPONDENT**

**MINISTER OF STATE SECURITY**

**4<sup>TH</sup> RESPONDENT**

**DIRECTOR-GENERAL OF THE OFFICE  
OF THE PRESIDENCY**

**5<sup>TH</sup> RESPONDENT**

**DIRECTOR-GENERAL OF THE  
DEPARTMENT OF HOME AFFAIRS**

**6<sup>TH</sup> RESPONDENT**

**DIRECTOR-GENERAL OF THE DEPARTMENT  
OF INTERNATIONAL RELATIONS**

**7<sup>TH</sup> RESPONDENT**

**AND CO-OPERATION**

**DIRECTOR-GENERAL OF THE DEPARTMENT  
OF STATE SECURITY**

**8<sup>TH</sup> RESPONDENT**

**CENTRE MANAGER FOR THE CROWN MINES  
REFUGEE RECEPTION OFFICE**

**9<sup>TH</sup> RESPONDENT**

**THE CHAIRPERSON: THE STANDING COMMITTEE  
FOR REFUGEE AFFAIRS**

**10<sup>TH</sup> RESPONDENT**

**THE REFUGEE STATUS DETERMINATION  
OFFICER RESPONSIBLE FOR GRANTING**

**REFUGEE STATUS TO THE TWELFTH RESPONDENT**

**11<sup>TH</sup> RESPONDENT**

Having heard counsel on **24 MAY 2017** on an appeal from the judgment of the Gauteng Division of the High Court of South Africa, delivered on **29 SEPTEMBER 2014** and having read the record of the proceedings in the said Court. (Case number **30123/2011**)

**JUDGMENT RESERVED**

THEREAFTER, on this day, the following order is agreed upon:

1. The appeal succeeds.
  
2. The decision, apparently taken on or about June 2010 by the Ninth Respondent and/or the Tenth Respondent and/or the Eleventh Respondent acting under supervision and control of the Second and Sixth Respondents (“the impugned decision”), to grant Kayumba Nyamwasa, the Twelfth Respondent, refugee status in terms of the Refugees Act, 130 of 1998 (“the Refugees Act”) is reviewed and set aside.
  
3. The order in paragraph 2 above is suspended for a period of 180 days from the date of this Court’s order to enable the Tenth Respondent and a Refugee Status Determination Officer appointed by the Ninth Respondent, under the supervision and control of the Second and Sixth Respondent, to reconsider and make a final decision on the refugee status of the Twelfth Respondent in terms of the Refugees Act.
  
4. The question of the Twelfth Respondent’s refugee status in terms of the Refugees Act is remitted for reconsideration to the Tenth Respondent and a Refugee Status Determination Officer appointed by the Ninth Respondent, under supervision and control of the Second and Sixth Respondents, subject to section 21(5) of the Refugees Act and the following:
  - a. The Appellant, and other interested parties, shall be permitted to make written and oral submissions to the Tenth and Eleventh Respondents regarding the grant or refusal of refugee status to the Twelfth Respondent, which submissions shall be taken into account by the Tenth Respondent,

and a Refugee Status Determination Officer appointed by the Ninth Respondent, prior to any final decision in respect of the Twelfth Respondent's refugee status;

- b. The Twelfth Respondent shall be permitted to make written and oral submissions to the Tenth and Eleventh Respondents regarding the grant or refusal of refugee status to the Twelfth Respondent, which submissions shall be taken into account by the Tenth Respondent and a Refugee Status Determination Officer appointed by the Ninth Respondent, prior to any final decision in respect of the Twelfth Respondent's refugee status.
5. The costs orders of the High Court (in the main application and the application for leave to appeal) are set aside.
  6. The Second, Sixth, Ninth, Tenth and Eleventh Respondents shall jointly and severally pay (the one paying the others to be absolved) the Appellant's costs (of senior and junior counsel) of the appeal in the Supreme Court of Appeal.
  7. The Twelfth Respondent:
    - a. Consents to the orders above;
    - b. Abandons the costs orders in his favour in the High Court, including the costs of the main application and the costs of the applications for leave to appeal in the High Court and the Supreme Court of Appeal.



**P.S.W MYBURGH (Mr.)/SM  
REGISTRAR**