



**THE SUPREME COURT OF APPEAL OF SOUTH AFRICA**  
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF  
APPEAL

**From:** The Registrar, Supreme Court of Appeal

**Date:** 06 February 2025

**Status:** Immediate

*The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal*

*Kangra Coal (Pty) Ltd v The Trustees of the Time Being of the Corneels Greyling Trust and Others (1052/2023) [2025] ZASCA 09 (06 February 2025)*

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Today the Supreme Court of Appeal (SCA) handed down judgment, wherein the appeal was upheld with costs, against an order of the Gauteng Division of the High Court, Johannesburg (the high court). The high court had interdicted Kangra Coal (Pty) Ltd (Kangra) from conducting mining operations at Kusipongo Colliery in Mpumalanga, pending the resolution of an appeal against its water use licence (WUL). The matter revolved around the interpretation of s 148(3) of the National Water Act 36 of 1998 (NWA) and whether an appeal to the Water Tribunal automatically suspended the WUL, thus preventing Kangra from exercising its rights.

The appellant, Kangra, an underground coal mining company at the Kusipongo Colliery, applied to the Department of Water and Sanitation (the Department) for an integrated WUL for associated infrastructure and mining at the Balgrathen A adit (the adit). The adit land used by Kangra is near properties owned by the first and second respondents (the respondents), who are commercial farmers dependent on natural springs in the area to irrigate and grow commercial crops and to rear their livestock for commercial and domestic purposes. They contended that the water use by Kangra would reduce the water flow in the area, pollute the water resources and result in acid mine drainage which will impact the quality of the water resources. In addition, this was a threat to the ground and surface resources on which they depend.

Despite the objections by the respondents, on 25 October 2021, the Chief Director of the Department of Water and Sanitation (the fourth respondent) granted the WUL to Kangra. The respondents appealed to the Water Tribunal (the Tribunal) in terms of s 148(3) of the NWA. They contended that the effect of their appeal was to suspend the decision to grant the WUL as provided for in s 22(1)(b) of the NWA.

In July 2023, before the Tribunal could decide the appeal, the respondents approached the high court for an interdict. The high court granted a final interdict and Kangra was interdicted from

conducting any mining operations, pending the determination of the appeal before the Minister. This appeal was with the leave of the high court.

The SCA found that while the respondents had an interest in the matter under s 32 of the National Environmental Management Act 107 of 1998 (NEMA), their standing was not clearly pleaded in their founding papers. The respondents relied on broad assertions rather than specific legal grounds. Further, the SCA found that the respondents failed to establish the requirements for a final interdict. The Court held that Kangra had been operating in terms of the WUL granted and the water use has not prejudiced the water supplies to the respondents. Furthermore, the Court found that the respondents failed to prove any actual or apprehension of potential harm. The report on which they relied did not establish definite harm but only speculated on possible risks.

The Court held that the mere lodging of an appeal under s 148(3) did not automatically suspend the WUL. The Minister of Water and Sanitation, not the Water Tribunal, had the authority to suspend the licence, which had not occurred in this case. Further, the SCA found that an Environmental Authorisation (EA) once granted cannot be withdrawn in its entirety based on a WUL lawfully granted. Therefore, Kangra was entitled to continue operations under the WUL.

As a result, the SCA set aside the high court's order and upheld the appeal with costs, including the costs of two counsel.

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