16 August 2018

**Joint Statement: Court delivers Marikana protest victory!**

Today the North West High Court has made an order in favour of the right to protest, in effect dismissing an attempt by Tharisa Minerals mining company to stop a protest on the anniversary of the Marikana Massacre.

This follows a months-long struggle by the Marikana Youth Development organisation and the Right2Know Campaign to assert their right to protest and march on Tharisa Minerals, which is the target of a number of community grievances. Again and again, marches have been unlawfully stopped by Rustenburg municipality, SAPS and Tharisa management (see background [here](https://www.groundup.org.za/article/right-protest-being-violated-small-mining-towns/) and [here](https://www.r2k.org.za/2018/08/15/statement-the-right-to-protest-banned-again-in-marikana/)).

Last night Tharisa’s lawyers at Cliffe Dekker Hofmeyr brought an urgent application to interdict any protest outside the Tharisa Mineral mine in Marikana.

We are glad to note that Judge Chwaro of the North West High Court has granted an order to allow the protest to go ahead and did not grant Tharisa Mineral’s interdict against R2K and MYD members. This is an important recognition of the right to protest, and a welcome blow against the pattern of abuse of legal processes that mining-affected communities often experience.

**Tharisa’s conduct**

It is important to put on record how this case came to court.

Last night after 6pm, members of R2K and MYD received an [urgent letter of demand](https://www.r2k.org.za/wp-content/uploads/180815-URGENT_letter-of-Demand-Tharisa-Minerals.pdf) from Tharisa, through their lawyers at Cliffe Dekker Hofmeyr. It gave us 45 minutes to undertake that we call off today’s march, failing which we will be interdicted and forced to pay Tharisa’s legal costs. Tharisa’s lawyers were set to appear in court at 8pm to secure this interdict - less than two hours after issuing us with its letter. At about 10.19pm, Tharisa’s lawyers [emailed its court papers](https://www.r2k.org.za/wp-content/uploads/180815-Urgent-Application-Tharisa-Minerals.pdf), informing us that their motion would be heard at 11pm that same night and inviting us to file our own court papers before then. (The North West High Court is more than two hours away from Marikana, where the conveners of the march were.)

With the intervention of the Legal Resources Centre and PowerSingh attorneys, Tharisa’s lawyers agreed to have the matter heard at 8am this morning instead, and R2K and MYD agreed not to protest until the court had heard the matter.

By 12pm, the parties had agreed to an order of the court that ensures the protest can go ahead, that a Tharisa representative will accept a memorandum at the gathering, and an undertaking from all parties to respect and protect the constitutional right to protest. R2K and MYD have undertaken, as they have always done, only to engage in peaceful and lawful protest.

**Way forward**

While the final outcome of the court process has vindicated our right to protest, the reality is this was only possible because of a last-minute intervention of pro-bono legal help from Legal Resources Centre and PowerSingh. In most cases, a community or organisation facing such an aggressive legal threat would never have been able to assert its rights in court. This is happening in communities across the country, and it needs to stop!

A key demand of the planned march is for Tharisa management, the municipality and the police to stop interfering with the community’s right to protest. The conduct of Tharisa in its legal threats show why this demand is so important.

So the protest today will continue, outside Tharisa Mine in Marikana, from 1.30pm to 4pm.

We call on all South Africans to continue the fight, not just in Marikana but across South Africa, for the right of ordinary people to speak and be heard!

Remember Marikana!

The court order is available here: https://www.r2k.org.za/wp-content/uploads/180816-Marikana-Court-Order-Tharisa.pdf

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**NOTE:***R2K urges communities to use the Right2Protest Hotline (0800 212 111) which offers free legal advice for protesters who are having their rights undermined. The number is operational during business hours. Follow the Right2Protest Project on Facebook and Twitter @ProtestZA.*