

Indian coal miner rejected again

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An Indian company that wants to establish a coal mine in Mpumalanga appears to have run out of options to continue with its investment, following its second unsuccessful attempt to appeal a Pretoria High Court ruling that withdrew its mining permissions.

Atha-Africa Ventures (Pty) Ltd has been fighting environmental groups vehemently opposed to the company's intention to extract coal at an important water source in the Mabola Protected Environment, near the small tourist town of Wakkerstroom.

In November last year, the Centre for Environmental Rights (CER) succeeded in getting the Pretoria High Court to set aside a 2016 decision by then mining minister Mosebenzi Zwane and late environmental affairs minister Edna Molewa to grant Atha-Africa permission to develop its new coal mine.

Since then, the company has approached the courts twice - the Pretoria High Court, in January this year; and the Supreme Court of Appeal, in April - for leave to appeal the case. But its application was denied both times.

The CER represented a coalition of eight environmental organisations in the case against Atha-Africa: the Mining and Environmental Justice Community Network of SA, groundWork, Earthlife Africa, BirdLife SA, the Endangered Wildlife Trust, the Federation for a Sustainable Environment, the Association for Water and Rural Development, and the Bench Marks Foundation.

Atha-Africa is in partnership with Bashubile Trust. Two of the latter's trustees, Sizwe Christopher Zuma and Vincent Gezinhliziyo Zuma, are the nephews of former president Jacob Zuma. The third trustee is Thabiso Mpofo.

The CER argued that various departments - including the Mpumalanga department of agriculture, rural development, land and environmental affairs; the department of environmental affairs; and the mineral resources department - were wrong in giving the company authorisation to mine on Mabola, which

was declared a protected area in 2014.

The CER pointed out that the area is a strategic fresh water source for the Usuthu, Tugela, Vaal and Pongola rivers. If endangered by acid mine drainage, it warned, the availability of clean water for communities would be reduced.

Atha-Africa did not respond to written questions from City Press asking whether the company would give up the project or pursue other legal avenues, if any were still available.

CER executive director Melissa Fourie said the centre was awaiting the Water Tribunal's ruling on an appeal by the coalition against the department of water and sanitation for its issuing a water use licence to Atha-Africa. The nine-day appeal hearing was concluded on December 5 last year.

Fourie said the coalition's appeal against the mining department's approval of Atha-Africa's environmental management programme was also still pending.

"The coalition is hopeful that the Water Tribunal will stand up for the strategic water source area in which the proposed mine would be situated and set aside the water use licence," she said.

The legal battle between the environmentalists and Atha-Africa started in 2017.

In November 2018, the Pretoria High Court set aside the decision to grant Atha-Africa a mining permit.

In January this year, the company was refused permission to appeal, with costs awarded in favour of the CER.

On April 23, the Supreme Court of Appeal found that Atha-Africa had no prospect of successfully overturning the high court judgment and awarded costs in favour of the CER.

The CER's legal action against Atha-Africa has angered some residents of the poverty-stricken Pixley ka Isaka Seme Local Municipality in Volksrust, who were hoping for jobs. Atha-Africa said it aimed to create 500 permanent and 2 000 indirect jobs.

The Voice Community Representative Council, a community pressure group, has accused the environmental organisations of racism, saying the investment would have uplifted the poor.