

SOUTH AFRICA / JUDGMENT

Normandien Farms (Pty) Ltd v Mathimbane and Others (LCC196/2013) [2016] ZALCC 29 (16 February 2016)

[2016] ZALCC 29

COURT
Land Claims Court

BEFORE
Meer YS

CASE / FILE NUMBER
LCC196/2013

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IN
THE LAND CLAIMS COURT OF SOUTH AFRICA
HELD
AT RANDBURG
CASE
NO: LCC196/2013

Before: The Honourable AJP Meer
Heard
on: 16 February 2016
Delivered
on: 16 February 2016

In the matter between: NORMANDIEN
FARMS (PTY) LTD
and
MANDLA
NKOSI JOSEPH
MATHIMBANE First
Respondent
BONGINKOSI
DAVID
MATHIMBANE Second
Respondent
PHUMELELO
FLORENCE
MATHIMBANE Third
Respondent
MLAMBULI

OBED
MATHIMBANE Fourth
Respondent
SIPHO
MATHIMBANE Fifth
Respondent
MARIAM
JELE Sixth
Respondent
BERNARD
JELE Seventh
Respondent
MARTHA
JELE Eighth
Respondent
ALBERT
JELE Ninth
Respondent
APOSTOL
JELE Tenth
Respondent
SWEET
BETTER
JELE Eleventh
Respondent
JOHANNES
JELE Twelfth
Respondent
THE
MINISTER OF THE NATIONAL
DEPARTMENT
OF AGRICULTURE,
FORESTRY
AND
FISHERIES Thirteenth
Respondent
THE
MINISTER OF RURAL
DEVELOPMENT
AND LAND REFORM Fourteenth
Respondent
THE
REGIONAL LAND CLAIMS
COMMISSIONER,
KWAZULU-NATAL
COMMISSIONER,
KWAZULU-NATAL Fifteenth
Respondent

JUDGEMENT

[1] Two applications for leave to appeal against my judgement of 05 November 2015 have been filed. The first application ("first

application") by the parties who were the First to Twelfth Respondents in the main application, appeals to the Supreme Court of Appeal against the whole of my judgement and order. The second application ("second application"), brought by the Fourteenth

Respondent in the main application, appeals against paragraphs 3, 4, and 5 of the order in my judgement of 5 November 2015.

[2] The grounds of appeal in both applications, in the main traverse issues in respect of which reasoned findings are made in the

judgement. It will thus serve little purpose to repeat these here, save for the following comments:

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[3] The first application in essence takes issue, inter-alia, with my findings on the counter-claim, the application to strike out my interpretation of the legislation being the various Acts dealt with in the judgement, my findings on costs and locus standi.

[4] Mr Shakoane in addition submitted that there was a compelling reason why the appeal should be heard, namely that this matter involves two conflicting judgements and orders of this court. This is a reference to my judgement of 5 November 2014 and the order of Sardiwalla AJ of 02 April 2014, (referred to in my judgment), which made an agreement by the parties before him an order of Court. His order conferred labour tenancy status on the Plaintiffs in the matter before him and ordered certain conduct flowing therefrom. My judgement and order dealt with a separate matter as is evident from the pleadings and record. The two orders cannot therefore be said to conflict in respect of the same matter, albeit that the two orders accepted the labour tenancy status of the First to Twelfth Plaintiffs/ Respondents and both orders pertain to them.

[5] The second application for leave to appeal by the fourteenth Respondent similarly takes issue with my interpretation of the Land Reform Labour Tenants Act 3 of 1996, the Conservation of Agricultural Resources Act 43 of 1983("CARA") and the Land Reform Provision of land and Assistance Act 126 of 1993, as well as my findings on costs.

[6] As aforementioned my reasoned findings on all aspects with which issue is taken in both applications for leave to appeal, appear

clearly in my judgement in response to the arguments presented at the hearing and mirrored in both applications for leave to appeal. They are, not of course repeated here.

[7] I have carefully considered the submissions by Mr Shakoane and Ms Norman and have reflected dispassionately upon my decision after hearing their arguments. I am of the view that another Court would not come to a decision different to mine in respect of the issues raised by them. There are accordingly, in my view no reasonable prospects of success on appeal. This being so both applications for leave to appeal stand to be dismissed. In keeping with the practice of this Court, I make no order as to costs.

I order as follows:

The applications for leave to appeal are dismissed.

There is no order as to costs.

Meer YS

Acting Judge President of the Land Claims Court

Appearances:

Counsel for the Applicant:

Adv G Roberts SC

Adv C Hattingh

Attorneys for the Applicant:

Peter Vinnicombe & Associates, Durban.

Counsel for the 1st to 12th Respondent:

Adv G Shakoane SC Adv M Kgariya

Attorneys for the 1st to 12th Respondent:

MC Ntshalintshali & Associates, Durban.

AdvT Norman SC Adv Z P Mhlongo

Attorneys for the 13th Respondent:

State Attorney, Durban

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Prepared on 13 October 2026 · Esheria