

# IN THE LAND CLAIMS COURT OF SOUTH AFRICA

**RANDBURG**

In chambers: **MOLOTO AJ**

**CASE NUMBER: LCC 37R/01**

**MAGISTRATE'S COURT CASE NUMBER: 16719/00**

Decided on 26 February 2001

In the review proceedings in the case between:

**BOSMAN, D**

Applicant

and

**KAMPHER, I**

1<sup>st</sup> Respondent

**KAMPHER, M**

2<sup>nd</sup> Respondent

**TOEKOE, J**

3<sup>rd</sup> Respondent

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## JUDGMENT

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**MOLOTO AJ:**

[1] This is an automatic review in terms of section 19(3) of the Extension of Security of Tenure Act<sup>1</sup> (hereinafter referred to as “the Act”) of an order for the eviction of the respondents from the applicant’s farm Welgevonden, Fischer Road, Bottelary. The eviction order was granted by the Magistrate, Kuilsrivier.

[2] I am satisfied that all but one section of the Act have been complied with and I intend to refer the matter back to the magistrate for consideration of that section, namely section 13.

[3] Section 13 is peremptory.<sup>2</sup> I am not satisfied that, on the available information, the magistrate could have applied his mind to the matters indicated in section 13.

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1 Act 62 of 1997, as amended.

2 *Pitout v Mbolane* [2000] 2 All SA 379 (LCC) at para [15].

[4] I make the following order:

- (1) The order of the Magistrate, Kuilsrivier made on 30 January 2001 is hereby suspended in whole pending compliance with section 13 of the Extension of Security of Tenure Act, 62 of 1997.
- (2) The magistrate is directed to comply with section 13 of the Extension of Security of Tenure Act, 62 of 1997.

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**ACTING JUDGE J MOLOTO**

For the applicant:

*Mr Dykman of Smit Kruger Inc, Durbanville.*

For the respondents:

*No appearance.*