

MB14

IN THE LAND CLAIMS COURT OF SOUTH AFRICA  
HELD AT RANDBURG

CASE NO: LCC 196/2013

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**

**BONGINKOSI DAVID MATHIMBANE**

**PHUMELELO FLORENCE MATHIMBANE**

**MLAMULI OBED MATHIMBANE**

**SIPHO MATHIMBANE**

**MARIAM JELE**

**BERNARD JELE**

**MARTHA JELE**

**ALBERT JELE**

**APOSTOL JELE**

**SWEET BETTER JELE**

**JOHANNES JELE**

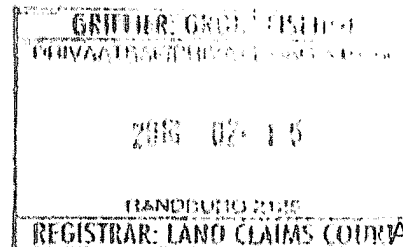
**THE MINISTER OF THE NATIONAL**

**DEPARTMENT OF AGRICULTURE,**

**FORESTRY AND FISHERIES**

**THE MINISTER OF RURAL**

**DEVELOPMENT AND LAND REFORM**



First Respondent

Second Respondent

Third Respondent

Fourth Respondent

Fifth Respondent

Sixth Respondent

Seventh Respondent

Eighth Respondent

Ninth Respondent

Tenth Respondent

Eleventh Respondent

Twelfth Respondent

Thirteenth Respondent

Fourteenth Respondent

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JUDGEMENT

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- [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: -
- [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*.

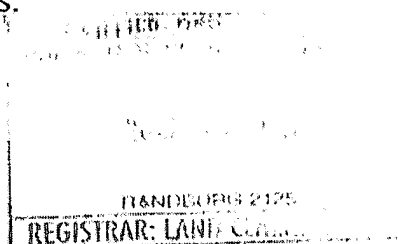
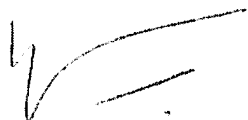
- [4] Mr Shakoane in addition submitted that there was a compelling reason why the appeal should be heard, namely that this matter involves two conflicting judgements and orders of this court. This is a reference to my judgement of 5 November 2014 and the order of Sardiwalla AJ of 02 April 2014, (referred 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.



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**Meer Y S**

**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 1<sup>st</sup> to 12<sup>th</sup> Respondent:**

Adv G Shakoane SC

Adv M Kgariya

**Attorneys for the 1<sup>st</sup> to 12<sup>th</sup> Respondent:**

MC Ntshalintshali & Associates, Durban.

**Counsel for the 1<sup>st</sup> to 12<sup>th</sup> Respondent:**

Adv T Norman SC

Adv Z P Mhlongo

**Attorneys for the 13<sup>th</sup> Respondent:**

State Attorney, Durban