



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 27 September 2013
Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

MBABA v MBABA

The Supreme Court of Appeal (SCA) today dismissed an appeal by Ms Nothozamile Pumla Mbaba (the appellant) against an order of the Eastern Cape High Court, Mthatha dismissing her application for a final interdict against Ms Nobelusi Mbaba (the first respondent).

The appellant had obtained an interim interdict against the first respondent concerning the performance of certain acts relating to the administration of the estate of the late Mr Ngqele Edwin Mbaba. The appellant claimed that she had been married to the deceased under customary law and that as his wife she was entitled to administer his estate. She denied that the first respondent had been married to the deceased and alleged that she was merely his girlfriend. Even though the appellant claimed to have been married to the deceased she did not, in her notice of motion, seek a declaratory order to that effect. She declined an invitation from the first respondent to withdraw the application for an interdict and institute a proper application. In dismissing the application for a final interdict, the high court had

held that the appellant had failed to prove her alleged marriage to the deceased or that the first respondent was not married to him.

The SCA deplored the manner in which the relief sought by the appellant had been formulated. It held that the appellant was bound by the poor manner in which the relief she sought was formulated in her notice of motion. The court found it not necessary to decide the validity of the alleged marriages. The SCA held that the appellant had failed to establish the requisites for the grant of a final interdict. It then dismissed the appeal with costs.