



**IN THE LAND CLAIMS COURT OF SOUTH AFRICA  
HELD AT RANDBURG**

**CASE NO.: LCC 245/2009**

(1)	REPORTABLE: <del>YES</del> / NO
(2)	OF INTEREST TO OTHER JUDGES: <del>YES</del> / NO
(3)	REVISED.

23/7/18 *[Signature]*

In the matter between:

**WELVERDIEND COMMUNITY**

Applicant

Concerning:

Welverdiend 266 KP, Roodeblom 247 KP, De Paarl 2436 KP and

Langverwacht 264 KP

and

**THE MINISTER OF RURAL DEVELOPMENT AND**

**LAND REFORM**

First Respondent

**AM AHLUBI TRADITIONAL COUNCIL**

Second Respondent

Heard: **12 July 2018**

Judgment delivered: **23 July 2018**

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**JUDGMENT**

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## CANCA AJ

### INTRODUCTION

[1] The applicant applies for leave to appeal to the Supreme Court of Appeal against the whole of the judgment and order of this Court granted on 22 May 2018.

[2] The Court dismissed a point *in limine*, raised by the applicant, that the second respondent did not have the necessary *locus standi* to participate in an action in which the applicant claimed the restitution of rights in certain land in terms of the provisions of the Restitution of Land Rights Act, 22 of 1994 ("the Act").

[3] The application is opposed by both respondents who contend that the Court's order is not appealable as it is not final in effect, does not dispose of any of the issues and is not definitive of the rights of the parties. Reliance for their opposition is placed on *Zweni v Minister of Law and Order* 1993 (1) SA 523 (A) at 532I – 533B which sets out the attributes a judgment or order must have for it to be appealable. See also *FirstRand Bank Limited t/a First National Bank v Makaleng* [2016] ZASCA 169 para 15 and *Cilliers & Others v Ellis & Another* (200/2016) [2017] ZASCA 13 at para 17.

[4] The majority of the grounds of appeal set out in the notice of appeal pertain to issues in respect of which reasoned findings are set out in the judgment. It is accordingly not necessary to traverse these here.


[5] Apart from the submissions by the respondents, set out above, with which I agree, the application also fails the test for the grant of leave to appeal. This is so, because, having carefully considered all the submissions of counsel for the applicant and the respondents, I am of the view that another court would not come to a finding different from mine. This being so, there are no reasonable prospects of success on appeal and

leave to appeal is accordingly refused. See the test for the grant of leave to appeal set out in section 17 of the Superior Court Act, 10 of 2013 and *The Mont Chevaux Trust v Tina Goosen & 18 Others* LCC 14R/2014 at para 6.

[6] Mr. Siyo, for the second respondent, submitted that the applicant should be mulcted with the costs of this application. No reasons were furnished as to why the Court should deviate from the normal principle pertaining to costs in this Court. I can find no special circumstances in this matter that warrant deviation from this Court's view on costs.

[7] In the result, the following order is made:

1. The application for leave to appeal is dismissed.
2. No order as to costs.




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MP Canca

Acting Judge, Land Claims Court

I agree



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SP Hlahane

Assessor

**Appearances:****For the applicant****Advocate TM Malatji****Instructed by****Ledwaba Mazwai Attorneys, Pretoria.****For the first respondent****Advocate L Gumbi****Instructed by****State Attorney, Pretoria.****For the second respondent****Advocate L Siyo****Instructed by****Makaula Zilwa Inc., Sandton.**