



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

CASE NO: LCC 01R2019

MAGISTRATE'S COURT CASE NUMBER: 4334/2016

Before: **The Honourable Acting Judge President Meer**

Delivered: 29 January 2019

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES / NO	
(2) OF INTEREST TO OTHER JUDGES: YES / NO	
(3) REVISED: YES / NO	
29/01/2019	
DATE	SIGNATURE



In the matter between:

MOTYRE (PTY) LTD – CONRADIE FAMILY TRUST

Applicant

And

RANDALL GURAH

1st Respondent

ALL OTHER PERSONS RESIDING

2nd Respondent

**THE MUNICIPAL MANGER
THE CAPE WINE LAND DISTRICT
MUNICIPALITY**

3rd Respondent

**THE MUNICIPAL MANGER
THE BREEDE RIVER VALLEY
MUNICIPALITY**

4th Respondent

**THE DEPUTY DIRECTOR / THE HEAD
OF DEPARTMENT
THE DEPARTMENT
OF RURAL DEVELOPMENT AND RURAL REFORM**

5th Respondent

JUDGMENT DELIVERED 29 JANUARY 2019

MEER AJP.

- [1] This matter comes before me on automatic review. I am satisfied that the order for the eviction stands to be confirmed. The following, which appears to have escaped the Court a quo, must however be noted.
- [2] The right of residence of the First Respondent predated his contract of employment. His right to reside therefore flowed from consent and not from his employment contract. The factors at Section 8 (1) of the Extension of Security of Tenure Act No 62 of 1997 (“the ACT”) thus had to be considered. The founding affidavit did in fact address such factors.
- [3] The Second Respondent’s right of residence also flowed from consent and not from the rights of occupation of the First Respondent. The Constitutional Court judgment of *Klaase and Another v Van der Merwe No and Others 2016(6) SA131(CC)* recognized that the rights of residence

of persons like the Second Respondent derived from consent flowing from the combined operation of subsections (4) and (5) of section 3 of the Act. Post Klaase the Second Respondent can no longer be regarded as a mere resident who occupied under the First Respondent. Section 8 (1) applies also in respect of the Second Respondent.

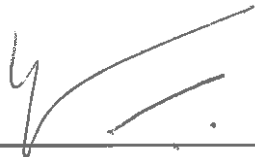
[4] I have carefully considered the evidence and pleadings and I am satisfied that the eviction of the Respondents was just and equitable having regard to all relevant factors and particularly those set out at Section 8 (1) of the Act.

[5] I accordingly order as follows:

The order of eviction is confirmed save that the dates in the order are amended as follows:

Date of eviction: Friday 28 June 2019

Date Sheriff to execute order: Mon 1 July 2019



Y S MEER
Acting Judge President
Land Claims Court