




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

CASE NO: LCC125/2020

Before: Honourable Meer AJP and Kgoele J

Heard on: 26 January 2024

Delivered on: 26 January 2024

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES / NO	
(2) OF INTEREST TO OTHER JUDGES: YES / NO	
(3) REVISED: YES / NO	
26/01/2024	
DATE	SIGNATURE

In the matter between:

PHARIS TAILORS JOHN MABUZA

(on behalf of the Mabuza family descendants)

Applicant

and

**MINISTER OF AGRICULTURE, LAND REFORM &
RURAL DEVELOPMENT**

First Respondent

**THE REGIONAL LAND CLAIMS COMMISSIONER,
MPUMALANGA**

Participating Party

SAPPI MANUFACTURING (PTY) LTD

SAPPI FORESTRY (PTY) LTD

Second Respondent

YORK TIMBERS (PTY) LIMITED

Third Respondent

STADSRIVIER VALLEI (PTY) LTD

Fourth Respondent

LEAVE TO APPEAL JUDGMENT

MEER AJP

- [1] The Applicant applies for leave to appeal to the Supreme Court of Appeal against the whole of our judgment and order of 13 December 2023. The grounds upon which leave to appeal is sought traverse issues in respect of which reasoned findings are made in the judgment and it would serve little purpose to repeat these here, save as to emphasize the following concerning the evaluation of the evidence.
- [2] The claim before the court was one in terms of section 2(1)(c), one of direct descendants of members of the Mabuza family for dispossession of rights in land in the farm Rooyval. The Land Claims Commission's investigation of the description of the land on the claim form resulted in only one farm being gazetted as the claimed land, namely Rooyval. In order to succeed in their claims, the witnesses who were members of the Mabuza family had to prove that their ancestors were dispossessed of rights in land on Rooyval. Only two witnesses were able to prove this.
- [3] The evidence including the evidence in the inspection *in loco* showed that the witnesses who were found not to have claims were *inter alia* dispossessed allegedly from the farms Sandrego and Rietvlei or in the case of Pharis Mabuza, who brought the claim on behalf of the Mabuza family, was not listed at all as a claimant. All of this was conceded by the Applicant's own expert Mr. Nkosi.

[4] Issue is being taken with the acceptance of the evidence of Mr. Stephenson, the Second to Fourth Respondents' expert valuer. However the substance of his evidence was not challenged at the trial.

[5] I have carefully considered the submissions of Counsel and I am of the view that another court would not come to a decision different to ours. This being so, there are no reasonable prospects of success on appeal. With regard to costs, I intend granting no order as to costs in keeping with the practice of this Court not to make costs orders unless there are exceptional circumstances. I do not find there to be exceptional circumstances notwithstanding the characterisation of this application as frivolous by Mr. Goddard for the Second to Fourth Respondents.

[6] I grant the following order:

6.1 The application for leave to appeal is dismissed.

6.2 There is no order as to costs.



Y S MEER

Acting Judge President
Land Claims Court

I agree.



A M KGOELE

Judge
Land Claims Court

APPEARANCES:

For the Applicants:

Adv. L. Zwane

Instructed by:

WS Nkosi Attorneys Inc.

For the First Respondent
and Participating Party:

Mr S. Mathebula – State Attorney,
Pretoria

For the Second, Third and

Fourth Respondents:

Adv. G. Goddard SC

Instructed by:

Shepstone and Wylie Attorneys