



OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

**IN THE LAND CLAIMS COURT
HELD AT PORT ELIZABETH**

Case No.:LCC **23/2007**

Heard on: 13 September 2016

Delivered on: 13 September 2016

In the matter between:

MAZIZINI COMMUNITY	Applicant
PRUDHOE COMMUNITY	First Respondent
THARFIELD COMMUNITY	Second Respondent
THE MINISTER OF RURAL DEVELOPMENT AND LAND REFORM	Third Respondent
EMFULENI RESORTS (PTY) LIMITED	Fourth Respondent
SUN INTERNATIONAL (CISKEI) LIMITED	Fifth Respondent
REGIONAL LAND CLAIMS COMMISSIONER EASTERN CAPE	Participating Party

JUDGMENT

MEER AJP:

[1] The Applicant applies for leave to appeal to the Supreme Court of Appeal against the whole of my judgment of 12 September 2016. The judgment dismissed an interlocutory application which sought *inter alia* a declaration that the land claim lodged by the Applicant as First Plaintiff was valid. The main action concerns three competing claims for restitution

of rights in land lodged as community claims, of which the Applicant's is one.

[2] The application in respect of which leave to appeal is being sought, was not determinative of the Applicant's as First Plaintiff's rights, or the rights of any party. Nor was it dispositive of all the issues in the case. Section 17(1)(c) of the Superior Courts Act 10 of 2013, provides that where the decision sought to be appealed against does not dispose of all the issues in the case, leave to appeal may only be given where the Judges are of the opinion that the appeal would lead to a just and prompt resolution of the real issues between the parties. We are not of such opinion, given that an appeal against our decision would not resolve the disputes concerning the validity of the land claims of the Applicant and First Respondent as First and Second Plaintiffs, respectively. For this reason alone, the application for leave to appeal cannot succeed.

[3] Turning to the merits, the grounds upon which leave to appeal is sought, traverse issues in respect of which reasoned findings are made in the judgment. It would serve little purpose to repeat these here. I have given due consideration to the submissions by counsel, and arrive at the view that another court would not come to a decision different to mine. This being so, I am of the view that there are no reasonable prospects of success on appeal.

[4] In my judgment I awarded costs against the Applicant, contrary to the general practice of this Court not to award costs, for the reason that the application was vexatious. I similarly award costs in this application.

[5] I grant the following order:

The application for leave to appeal is dismissed with costs.

YS Meer AJP

Land Claims Court

I agree.

H Barnes AJ

Land Claims Court

I agree.

Professor R Mqoke

Land Claims Court