



## CONSTITUTIONAL COURT OF SOUTH AFRICA

**John Buti Matladi obo Matladi Family v Greater Tubatse Local Municipality and Others**

**Case CCT 42/13**

**Date of Judgment: 14 June 2013**

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### MEDIA SUMMARY

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*The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.*

This morning the Constitutional Court handed down a judgment refusing leave to appeal the decision of the Supreme Court of Appeal. The appeal is directed against the decision of the Land Claims Court.

The applicant's deceased mother lodged, in terms of the Restitution of Land Rights Act (Restitution Act), a claim for restitution of rights in the land known as Farm Leeuwvallei 297, Limpopo (farm) within the jurisdiction of the Greater Tubatse Local Municipality (Municipality). The Regional Land Claims Commissioner gave notice of the land claim in the Government Gazette.

Consequently, the applicant (John Buti Matladi) brought an application in the Land Claims Court in terms of section 6(3) read together with section 11(7) the Restitution Act for an interdict prohibiting any development on the farm and restraining the Municipality from authorising or allowing any development on the farm. The Land Claims Court dismissed the application for the interdict on the ground that some of the procedural prerequisites outlined in the Restitution Act had not been satisfied. The Land Claims Court held that the balance of convenience or fairness does not favour the granting of an order restraining further developments. It further held that if the interdict were to be granted it would halt multi-million rand projects undertaken by the respondents and other private entities and stall the development of any land by or within the jurisdiction of the Municipality. The Supreme Court of Appeal refused the applicant leave to appeal.

In this Court, the applicant contended that in reaching its decision, the Land Claims Court relied, in part, on the Supreme Court of Appeal decision in *King Sabata Dalindyebo Municipality and Others v KwaLindile Community and Others* [2012] ZASCA 96 (SCA) which has since been set aside by this Court. The applicant averred that the Land Claims Court should have granted the

interdict because it was compulsory for the Municipality to apply for an order in terms of section 34(1) of the Restitution Act, but had not done so. The applicant contended that the LCC was wrong in holding that he had not complied with the notice procedures required by section 6(3)-(7) of the Restitution Act. The Municipality and other respondents, with the exception of the Commissioner, opposed the application in this Court.

This Court found that even if it were to assume in favour of the applicant on the notice requirements, the application for leave to appeal would still fail on the ground that the appeal has no prospects of success. It held that the contentions of the applicant do not meet head on the reasoning and that the balance of convenience or fairness, does not favour the applicant. The application for leave to appeal was accordingly dismissed.