



CONSTITUTIONAL COURT OF SOUTH AFRICA

eThekweni Municipality v Ingonyama Trust

Case CCT 80/12

Date of Hearing: 12 February 2013

Date of Judgment: 28 March 2013

MEDIA SUMMARY

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 dismissing an application for leave to appeal against a decision of the Supreme Court of Appeal, with costs.

eThekweni Municipality (Municipality) brought an application in the KwaZulu-Natal High Court, Durban (High Court) seeking a declaration that the Ingonyama Trust (Trust) property falling within the jurisdiction of the Municipality is ratable for the period between May 1996 and June 2005. The Trust opposed the application and contended that the land was state property which was exempt from being rated in terms of the Rating of State Property Act (Rating Act). The High Court found that the property in question was not state property and held that it is therefore ratable.

The Trust appealed to the Supreme Court of Appeal. The Court held that the property in question constituted state property which was exempt from rates and overturned the High Court order.

In the Constitutional Court the Municipality sought leave to appeal against the judgment of the Supreme Court of Appeal. The Municipality's application was two months late. Therefore it had to apply for condonation of the delay. The Municipality had to satisfy two requirements: it was required to give a satisfactory explanation for the delay and also to show that the interests of justice favour the grant of condonation of the delay.

In a unanimous judgment by Jafta J, the Court rejected the explanation given by the Municipality for the delay because it was unsatisfactory and held that it was not in the interests of justice to

grant condonation and leave to appeal. The Court further held that there were no prospects of success because the land in question constituted state property exempt from rates in terms of the Rating Act.