

**IN THE HIGH COURT OF SOUTH AFRICA
(EAST LONDON CIRCUIT LOCAL DIVISION)**

CASE NO.: EL167/12

ECD 467/12

DATE: 26 JUNE 2012

In the matter between:

DEPARTMENT OF RURAL DEVELOPMENT

AND LAND REFORM

APPLICANT

vs

D GERNETZKY

RESPONDENT

EX TEMPORE JUDGMENT

EBRAHIM ADJP:

- 1] This is an application for the eviction of the respondent in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act No. 19 of 1998. The applicant has placed an affidavit before this Court and obtained the necessary order to serve on the respondent prior to moving for an order for his ejectment from the premises.

2] The respondent is presently before Court in person to oppose the granting of the final order of eviction. From what the respondent has placed before the Court I am unable to discern any legal basis upon which he opposes the application for his eviction from the property. What the respondent has placed before me are the emotional circumstances relating to the consequences that will flow from his eviction from the property. In this regard he indicates that he is divorced and has custody of his children and his aged parents reside with him at the property and should they be evicted they would not have anywhere else to stay. In terms of the argument he has presented he has simply asked me to come to his rescue and not to evict him from the premises. As unfortunate as the situation is, and as I have indicated previously, the respondent has not presented any legal basis upon which the applicants should not be granted the order they seek.

3] Mr Gernetzky I appreciate that the situation you face is dire, that you are going to be evicted, but unfortunately I do not sit here as a Court of equity in terms of which I must decide the matter on the basis of your unfortunate personal circumstances. I am compelled to look at the legal position and on that basis to determine whether the applicant has made out a proper case for your eviction or not.

4] In my view such a case has been made out by the applicants and I am constrained to grant them the order they seek. In the circumstances there will be an order in terms of the draft Notice as it appears on pages 18 and 19 of the papers.

Y EBRAHIM
ACTING DEPUTY JUDGE PRESIDENT, BHISHO HIGH COURT