



THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY - JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

Mazizini Community v Minister of Rural Development and Land Reform & others

From: The Registrar, Supreme Court of Appeal

Date: 2 June 2020

Status: Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Today the Supreme Court of Appeal (SCA) dismissed the appeal by the appellant (MaZizini Community) against the judgment of the Land Claims Court (LCC). The LCC had ruled in favour of the respondent Prudhoe community in a land claim by both parties in respect of land located between the Great Fish and Mgwalana Rivers on the east coast of the Eastern Cape. Both communities lodged their claims to the land in December 1998. However the Regional Land Claims Commissioner referred to the LCC only the MaZizini claim at first. The Prudhoe claim was only referred by the commission years later, leading to a long delay in the adjudication of the claims.

The LCC restored to AmaZizi only the land which it had been granted by the colonial government during the 1830's together with a portion of the land which originally fell under Chief Kama of the AmaGqunukhebe. This did not include the land which was claimed by both AmaZizi and the Prudhoe Community.

In appealing against the judgment of the LCC the Mazizini Community contended that, the contested land, which had also been part of Chief Kama's land before his departure from the land of AmaGqunukhebe in 1843, had been occupied by them. Amazizi's appeal was founded on the argument that the Prudhoe people were never a community as envisaged in the Restitution of Land Rights Act; they were only farm labourers who could only claim dispossession of individual rights to the land. They (AmaZizi) also argued that in 184, following the War of the Axe, AmaGqunukhebe were expelled from the contested land by the British. Consequently, according to Amazizi, the contested land should be restored to Amazizi.

The SCA dismissed the Mazizini appeal, finding that the Prudhoe Community had proved that they were a community under the Restitution Act; that they were descendants of AmaGqunukhebe who were the subjects of Chief Kama who left the contested land upon converting to Christianity in 1843. The SCA found that even though AmaGqunukhebe lost their political authority following the War of the Axe in 1847, the Prudhoe people never left their land. They continued their lives under a hybrid system of authority - based upon their indigenous ways of life, under colonial authority. On the other

hand there was no evidence of Amazizi or AmaMfengu occupation on the contested land that would entitle them to restoration of rights to the contested land.