

**IN THE LAND CLAIMS COURT OF SOUTH AFRICA**

**CASE NO: LCC 23/07**

Held on 11 May 2017

Before Justice Meer, Acting Justice Barnes and the assessor

In the matter between -

<b>MAZIZINI COMMUNITY</b>	First Plaintiff
<b>PRUDHOE COMMUNITY</b>	Second Plaintiff
<b>THARFIELD COMMUNITY</b>	Third Plaintiff

and

<b>MINISTER FOR RURAL DEVELOPMENT AND LAND REFORM</b>	First Defendant
<b>EMFULENI RESORTS (PTY) LIMITED</b>	Second Defendant
<b>SUN INTERNATIONAL (CISKEI) LIMITED</b>	Third Defendant
<b>REGIONAL LAND CLAIM COMMISSIONER EASTERN CAPE</b>	Participating Party

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**DRAFT ORDER**

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By agreement between the parties, the court makes the following order:

- 1 The matter is postponed until 30 October 2017 at 10am in the Land Claims Court sitting at the Magistrate's court, Port Alfred.

- 2 It is noted and recorded that the first plaintiff has relinquished its claim for restoration as defined in section 1 of the Restitution of Land Rights Act No. 22 of 1994 (“the Restitution Act”) in respect of all of the farms west of the Fish River, but maintains its claim for equitable redress in respect of such farms as contemplated in section 35(1)(c) of the Restitution Act.
  
- 3 Attorneys Neave Stotter must within two weeks of the date of this order serve electronically on the parties and file with the court –
  - 3.1 lists of all the farms (including portions of farms or erven where subdivision has taken place) in the areas depicted on Exhibit 4 as falling within the areas claimed by the first and second plaintiffs, east of the Fish River, including the area in respect of which settlement has been reached between the first and third plaintiffs and the first defendant in accordance with annexure A to this order, but excluding the areas of jurisdiction of the Jaji, Msuthu and Dabi Traditional Councils;
  - 3.2 lists of the current registered owners of the farms, portions or erven, as the case may be;
  - 3.3 a conveyancer’s certificate confirming the information referred to in paragraph 3.1 and 3.2 above; and
  - 3.4 a list of those of the persons referred to in paragraph 3.2 that have authorised Neave Stotter to act on their behalf in the above proceedings.
  
- 4 The attorneys for the second plaintiff must within two weeks of the date of this order deliver to Neave Stotter two hard copy sets and one soft copy flash disk

of all of the pleadings bundles, the expert bundle, the Commission reports and the exhibits, including the maps.

5 Service in terms of paragraph 4 is effective service on the persons contemplated in paragraph 3.4.

6 The first defendant must within two weeks of the date of delivery of the lists referred to in paragraphs 3.1 and 3.2, serve electronically on the parties and file with the court a full list of the names and addresses of all lessees in respect of any of the State land falling within the area referred to in paragraph 3.1 above, together with copies of the relevant lease agreements.

7 The attorneys for the second plaintiff must either themselves or through the deputy sheriff or sheriffs having jurisdiction, with all due expedition, effect service of the following documents on such of the registered owners as are referred to in paragraph 3.2 (excluding the State and those referred to in paragraph 3.4) and such of the lessees as are referred to in paragraph 6, as can reasonably be traced -

7.1 this order;

7.2 the notice forming annexure B to this order;

7.3 a blank notice of appearance form as provided for in Form 10 in the Schedules to the Land Claims Court rules;

7.4 a flash disk containing a soft copy of the documents referred to in paragraph 4 above; and

7.5 where the property is subject to the Tharfield settlement, annexure A to this order,

such service to be effected subject to the rules of this court and the directions contained in this order.

8 The attorneys for the second plaintiff must within three weeks of the date of this order –

8.1 publish once in the Sunday Times, Daily Dispatch, Talk of the Town and The Herald newspapers; and

8.2 place on a notice board, wall or door at the Port Alfred Magistrate's court, the Peddie Magistrate's Court, the Prudhoe Community Hall, the Mgababa Community Hall, the Benton Community Hall, the Tharfield Community Hall, the Dabi Traditional Council office, the Jaji Traditional Council office and the Msuthu Traditional Council office,

a notice as set out in annexure C to this order.

9 Any party receiving service in terms of this order must, if he or she or it wishes to participate in the case, deliver a duly completed notice of appearance form to the Registrar of the Land Claims Court and to the existing parties at the addresses referred to in annexure B to this order, within two weeks of service, or becoming aware of annexure C, such notice of appearance form to include in addition to the physical address for service, an email address for electronic delivery and cellular phone and landline contact numbers.

- 10 The second plaintiff must within two weeks of receipt of a notice of appearance form –
  - 10.1 assign a defendant number to the party serving the notice of appearance, and inform him her or it, the Registrar and the other parties electronically of such defendant number;
  - 10.2 electronically deliver such notice of appearance form to all of the other parties who have filed notice of appearance forms pursuant to this order;  
and
  - 10.3 file same with the court.
- 11 Service of all documentation in the proceedings of any document must be effected on all of the parties on record and all of the parties that have filed notices of appearance.
- 12 Within 5 days of receipt of the typed transcript of the proceedings to date, the second plaintiff's attorneys must –
  - 12.1 serve same electronically upon all of the parties that have filed notices of appearance or who are already on record; or
  - 12.2 if such service is precluded in any instance by the size of the electronic files or otherwise, notify the party concerned that the transcript is available at the offices of the second plaintiff's attorneys for copying.
- 13 Any party that has delivered a notice of appearance must, within three weeks of receipt of the transcript or notification of its availability, deliver to the parties on

record and file with the court, his, her or its plea in response to the pleadings filed by the various parties to date.

14 The participating party shall be liable for the fees and costs of Neave Stotter and of the second plaintiff's attorneys associated with the implementation of this order.

15 The second plaintiff's attorney may approach the court informally by letter to the registrar, on notice to the other parties, for a variation of this order should its implementation require it.

**BY ORDER**

**REGISTRAR, LAND CLAIMS COURT**