

**CANDIDATE: AJP YASMIN SHENAZ MEER**

**COURT FOR WHICH CANDIDATE APPLIES: LAND CLAIMS COURT**

**1. The candidate's appropriate qualifications**

1.1. The candidate holds the following degrees:

1.1.1. BA (1975);

1.1.2. LLB (1979); and

1.1.3. LLM (1982).

1.2. The candidate is appropriately qualified.

1.3. The candidate has been a Judge of the Land Claims Court from 1996 to the present, and a Judge of the Western Cape High Court from 2003 to the present. She has been the Acting Judge President of the Land Claims Court from January 2012 to the present.

**2. Whether the candidate is a fit and proper person**

2.1. The candidate has been a Judge of the Land Claims Court since 1996.

2.2. The candidate has been Acting Judge President of the Land Claims Court since January 2012.

2.3. We have been advised that an objection is to be made to the

Judicial Service Commission against the elevation of the candidate, by a senior member of the Johannesburg Bar, concerning the conduct of the candidate in relation to the matter decided by the candidate on 30 September 2010 in which his clients were ordered to pay costs on a punitive scale. The orders granted by the candidate resulted in a petition to the SCA after the candidate had refused leave to appeal. The petition was never decided on the merits by the SCA as the respondents abandoned the judgment in their favour. The gravamen of the complaint is that the candidate committed serious misdirections in relation to common cause facts in the process of granting the punitive costs orders against the applicants and that the candidate subsequently delayed the submission of the petition by her refusal, without good reason, to provide the claimants' attorney with certified copies of the relevant court orders.

2.4. We suggest that the objection of the senior member be scrutinised and the candidate requested to deal with the issues of substance raised therein.

2.5. Apart from the impact which any enquiry into these allegations may have and which we are not in a position to pre-empt, it appears to us that, the candidate is fit and proper for appointment to the position.

**3. Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa**

3.1. The candidate is a black woman.

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3.2. The appointment of the candidate would advance transformation from both a race and gender perspective.

**4. The candidate's knowledge of the law, including constitutional law**

4.1. The candidate has 47 reported judgments.

4.2. Of these, 4 are from the Supreme Court of Appeal (during the candidate's tenure as an Acting Judge of that court from April to September 2011). A further 25 reported judgments are from the Land Claims Court, and 18 from the High Court.

4.3. The candidate was the author of 3 of the SCA judgments, and the co-author (with Lewis JA) of the remaining one. None of the candidate's reported SCA judgments attracted dissent.

4.4. The candidate was the author of the vast majority of the reported judgments from the Land Claims Court and the High Court.

4.5. The subject matter of the candidate's reported judgments spans a wide field:

4.5.1. The candidate's judgments from the Land Claims Court deal with restitution of land rights and with security of tenure matters at both a substantive and procedural law level. As one of the first Judges to be appointed to the Land Claims Court, a number of her judgments deal with novel issues of law in the field.

4.5.2. The candidate's judgments from the High Court similarly

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cover a wide range of issues including, among others, delict, commercial/company law, administrative law, procedural law, insolvency law and admiralty law.

4.5.3. In the Supreme Court of Appeal, the candidate's reported judgments are in the fields of criminal procedural law, delict (quantum of damages) and universal partnership.

4.6. The candidate lists the following judgments as being most significant:

4.6.1. *Phillips v Minister of Rural Development and Land Reform and Another* [2014] 4 All SA 100 (LCC);

4.6.2. *Nkomazi Municipality v Ngomane of Lagedlane Community and Others* [2010] 3 All SA 563 (LCC);

4.6.3. *Khumalo and Others v Potgieter and Others* [2000] 2 All SA 456 (LCC);

4.6.4. *Ponelat v Schrepfer* 2012 (1) SA 206 (SCA);

4.6.5. *F v Minister of Safety and Security and Another* 2014 (6) SA 44 (WCC);

4.6.6. *Mlifi v Klingerberg* 1999 (2) SA 674 (LCC);

4.6.7. *Hlatswayo and Others v Hein* 1999 (2) SA 834 (LCC);

4.6.8. *Dulabh and Another v Department of Land Affairs* 1997 (4) SA 1108 (LCC);

4.6.9. *Drumearn (Pty) Ltd v Wagner and Others* 2002 (6) SA 500 (LCC);

- 4.6.10. *Gendor Holdings Ltd v City Fishing Holdings (Pty) Ltd* [2007] 3 All SA 400 (C).
- 4.7. *Philips* involved a claim under the Restitution of Land Rights Act 22 of 1994 by a white farmer who had been forced to sell his land to the state for incorporation into the Ciskei. The judgment held that the Act cannot be construed as excluding white persons and other categories of persons who were not victims of the 1913 Land Act from the category of dispossessed persons entitled to claim restitution of rights in land under the Act.
- 4.8. *Nkomazi Municipality* dealt with section 34 of the Restitution of Land Rights Act which permits the exclusion of physical restoration of land in certain instances. The judgment lists the factors to be considered by the Court for the grant of an interim order to the effect that when a land claim is finally determined, physical restoration shall not occur if this is not in the public interest and if substantial public prejudice will otherwise be caused. The judgment excluded certain land falling within the jurisdiction of the applicant Municipality from restoration.
- 4.9. *Khumalo* is a lengthy and detailed judgment that analyses the relevant issues and prescribes a formula for the valuation of land by the Court in circumstances where it is required to determine just and equitable compensation to a landowner where labour tenants are awarded land under Chapter 3 of the Land Reform Labour Tenants Act 3 of 1996. This is an important judgment in the development of the jurisprudence of the Land Claims Court as the formula prescribed therein has

been applied in subsequent cases.

- 4.10. In *Ponelat* the SCA was required to determine a claim based on a universal partnership. The parties had enjoyed a romantic relationship and had shared a life together for many years but had never married. The candidate wrote the unanimous judgment of the Court in which it was found that provided the relationship was such that it met the requirements of a universal partnership, the applicant was entitled to a share in the partnership estate regardless of whether the parties were married, engaged or cohabiting.
- 4.11. The judgment in *F v Minister of Safety and Security* dealt with the quantification of damages in the claim of a 13 year old who had been raped and assaulted by an off duty policeman. While there are numerous cases dealing with quantum of damages, there are not many judgments on quantum flowing from rape, particularly in circumstances where the defendant is the State.
- 4.12. The judgment in *Mlifi* deals with a number of important issues involving labour tenants: the definition of “labour tenant”, the prerequisites for the eviction of labour tenants under the law, and what constitutes a material breach of the relationship between a labour tenant and an employer. The judgment also traverses and pronounces on the ambit of the inquisitorial powers of the Land Claims Court.
- 4.13. In *Hlatswayo* the candidate considered the question of the jurisdiction of the Land Claims Court to hear an appeal against an order of the Magistrates’ Court in terms of section 13 of the

Land Reform (Labour Tenants) Act 3 of 1996. This was an issue *res nova* at the time.

- 4.14. In *Dulabh*, the court considered the meanings and application of the terms “dispossession”, “restitution”, “restoration” and “compensation” in the Restitution of Land Rights Act in circumstances where the physical restoration of the land in question has already been achieved by a claimant through her own means. On the basis of a purposive approach to interpretation, the Court held that a claim for compensation under the Act was not excluded where a claimant had through her own initiative restored her physical possession of the land in question.
- 4.15. *Drumearn (Pty) Ltd* involved the question of when a long term occupier of land is entitled to be protected from eviction under section 8(4) of the Extension of Security of Tenure Act 62 of 1997. It also concerned the issue of when a person is deemed to be an occupier in terms of section 3(2) of the same Act.
- 4.16. In *Gendor Holdings*, it was held that the effect of section 10A(2)(a) of the Admiralty Jurisdiction Regulations Act 105 of 1983 is that claims in insolvency proceedings which are claims in admiralty against the owner of an arrested ship have to be stayed and may only be revived if a surplus issues after proof of other claims in admiralty. The judgment held that the Court was precluded from granting the application for the winding-up of respondent in these circumstances.
- 4.17. These judgments, together with the candidate’s collection of

other reported judgments indicate a mature knowledge of all facets of law and an ability to apply this knowledge appropriately. The candidate's Land Claims Court jurisprudence in particular demonstrates a grasp of, and commitment to, constitutional principles.

4.18. The candidate has a good record on appeal given the extent of her tenure as a Judge and the number of judgments she has handed down. Five of her judgments have been upheld, and three have been overturned.

4.19. In addition to her judicial record, the candidate has a publications list demonstrating particular knowledge in the areas of human rights law and litigation in South Africa as well as in India, and in the area of constitutional law. Her publications include a chapter in Corder & McLennan (eds) *Controlling Public Power* (1995). She is also the author of an article entitled "Litigating with rights: Rights litigation and social action litigation in India" 1993 (9) SAJHR 358. The latter article is for a journal that subscribes to the process of peer review.

## **5. The candidate's commitment to the values of the Constitution**

5.1. There is an abundance of evidence demonstrating the candidate's commitment to the Constitution and its values.

5.2. The Land Claims Court was established under the Constitution expressly to redress historic racial dispossession of rights in land. The candidate's long involvement as a permanent Judge on this Court, together with the jurisprudence she has assisted

in developing, are evidence of her commitment to these important constitutional objectives. In particular, the candidate played a pivotal role, together with her fellow Land Claims Court Judges, in developing the jurisprudence relevant to land claims and to the protection of the rights of labour tenants and other marginalised occupiers.

5.3. In addition, the candidate's prior history shows a long-standing commitment to human rights. As an attorney, and subsequently as Deputy National Director and Acting National Director, with the Legal Resources Centre, the candidate worked to protect the rights of the poor and marginalised during the Apartheid era. In this capacity, she was involved in test case litigation challenging repressive legislation in the fields of influx control, housing, labour, land and consumer rights.

5.4. The candidate was also instrumental in producing "Know your Rights" booklets for use in communities.

## 6. **Whether any judgments have been overturned on appeal**

6.1. Three of the candidate's judgments have been overturned on appeal:

6.1.1. *Davis v Clutchco (Pty) Ltd* 2004 (1) SA 75 (C); *Clutchco (Pty) Ltd v Davis* 2005 (3) SA 486 (SCA) involved a request by a shareholder of a private company under the Promotion of Access to Information Act 2 of 2000 for access to certain accounting records of the company. The candidate held that the applicant was entitled to such access. However, the SCA on appeal overturned this

finding. It took a different view of the matter and found that the request for information did not have a sufficiently substantial foundation to warrant endorsement under the Act. There is no indication from the appeal judgment that the candidate committed any remarkable errors. The outcome of the appeal seems to have been no more than a higher court reasonably coming to a different conclusion on the matter.

6.1.2. *Kingswood Golf Estate (Pty) Ltd v Witts-Hewinson and Another* (WCC) 12 December 2005; *Kingswood Golf Estate (Pty) Ltd v Witts-Hewinson & another* (223/13) [2013] ZASCA 187 (29 November 2013). This matter involved the interpretation of a contract between the parties. The SCA set aside the candidate's order on the basis that the candidate had erred in admitting as evidence an *ex post facto* letter between the parties and basing her interpretation of the contract on this.

6.1.3. *Allie NO and Another v Department of Land Affairs and Others* 2002 JDR 0680 (LCC); *Abrams v Allie NO and Others* 2004 (4) SA 534 (SCA). In this matter, the SCA dismissed two out of three grounds of appeal (effectively upholding the candidate's findings on the relevant issues), but upheld the appeal on the third ground, viz. whether or not the respondent had received just and equitable compensation for the property in respect of which he had been dispossessed.

6.2. As against these, five of the candidate's judgments have been

upheld on appeal. The candidate's appeal record does not disclose any cause for concern.

## **7. The extent and breadth of the candidate's professional experience**

7.1. The candidate has an impressive professional history. It includes the following highlights:

7.1.1. She has BA, LLB and LLM degrees.

7.1.2. She was admitted as an attorney in 1983, when she commenced employment with the Legal Resources Centre.

7.1.3. In 1994 she was appointed as the Deputy National Director of the LRC, and in 1996 she was appointed as that organisation's Acting National Director.

7.1.4. From 1996 to the present she has been a Judge of the Land Claims Court.

7.1.5. From 2003 the candidate held this position simultaneously with an appointment as a Judge of the High Court of the Western Cape.

7.1.6. She has acted in the Supreme Court of Appeal for a period of 6 months in 2011.

7.1.7. Of significance is the fact that the candidate has been Acting Judge President of the Land Claims Court for a period of more than 3 years, viz. from January 2012 to the present.

**8. The candidate's linguistic and communication skills**

8.1. The candidate's judgments read well and show advanced linguistic and communication skills.

**9. The candidate's ability to produce judgments promptly**

9.1. The candidate has no outstanding judgments. Her record indicates an ability to work efficiently and to produce judgments promptly.

**10. The candidate's fairness and impartiality**

10.1. One comment received by the Bar seems to indicate that the candidate deals with matters firmly, which may sometimes be construed as impatience. Despite this comment, the commentator indicated that he would have no objection to her being appointed as the Judge President of the court.

10.2. Dealing with litigants firmly in order to ensure that a court functions efficiently is in the interests of justice and should be regarded as a positive trait on the part of a Judge.

**11. The candidate's independent mindedness**

11.1. The candidate's judgment in the *Philips* matter (discussed above) indicates that the candidate is able to approach matters with an independent mind and is able to implement the objectives of restitution rather than to view the issue on purely along racial lines.

11.2. There is no record of any complaint or incident indicating a lack of independent-mindedness on the part of the candidate.

**12. The candidate's ability to conduct court proceedings**

12.1. The candidate is an experienced Judge, who has held seat in three different courts, viz. the Land Claims Court; the High Court and the Supreme Court of Appeal (on an acting basis). With this judicial track record it must be accepted that the candidate has the requisite ability to conduct court proceedings properly.

**13. The candidate's administrative ability**

13.1. As indicated above, the candidate has been Acting Judge President of the Land Claims Court for a period of over 3 years. In this position the candidate has been required to fulfil various administrative functions in relation to the running of the court. These include the allocation and hearing of cases and the general administration of the Court at its seat in Randburg, as well as on its many Circuits throughout the country.

13.2. The candidate indicates that she has introduced the following administrative innovations during her tenure as Acting Judge President:

13.2.1. a case flow management system to ensure a smooth progression from inception to the determination of each case;

13.2.2. a number of Practice Directives have been introduced to enhance the smooth running of the court; and

13.2.3. the candidate has arranged an annual stakeholder meeting attended by various users of the court and other interested

parties with the aim of assessing and improving the efficiency of the court.

- 13.3. Members of the Bar are among those who have been invited to attend, and who regularly attend, the stakeholder meetings. From the perspective of the Bar innovations of this nature are to be encouraged, and the candidate should be commended for the steps she has taken in establishing these meetings.
- 13.4. The candidate is also involved in securing the appointment of Acting Judges in the Land Claims Court and ensuring that they are inducted and trained.
- 13.5. The candidate has been a member of the Land Claims Court since its inception. It would be difficult to conceive that there may be a candidate who is better able to carry out the administrative functions needed to ensure the continued efficiency of this court.

#### **14. The candidate's reputation for integrity and ethical behaviour**

- 14.1. No adverse comments have been received in this regard.
- 14.2. There is nothing else on record to indicate that the candidate's integrity or ethics have ever been compromised.

#### **15. The candidate's judicial temperament**

- 15.1. Reference was made earlier to a comment suggesting that the candidate has at times conducted proceedings with a firm hand that may be interpreted as impatience.
- 15.2. As was indicated earlier, decisiveness and firmness in dealing

with litigants is a positive virtue in a Judge.

15.3. It should be noted that even the commentator who expressed the view that the candidate could be impatient in court indicated that he had no objection to her being appointed as the Judge President.

15.4. Clearly, therefore, the comment should not be accorded undue adverse weight.

**16. The candidate's commitment to human rights, and experience with regard to the values and needs of the community**

16.1. This has already been addressed in response to question 5 above.

**17. The candidate's potential**

17.1. From the perspective of the Bar it is important to ensure that the person who is appointed as Judge President has the necessary skills and experience to ensure the efficient running of the court.

17.2. The candidate's established judicial career, and in particular her experience as the Acting Judge President of the Land Claims Court, demonstrate that she already has the skills required to fill the post on a permanent basis.

**18. The message that the candidate's appointment would send to the community at large**

18.1. The candidate's appointment would further the following important objectives:

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- 18.1.1. ensuring that gender transformation occurs at senior levels of the judiciary, and particularly at Judge President level; and
- 18.1.2. ensuring that persons with demonstrated knowledge and experience are appointed to head up the High Courts.
- 18.2. The candidate's appointment would be seen in the public and legal domain as being fitting and appropriate to aid the continued efficiency and effectiveness of the Land Claims Court. In this way, it would preserve and enhance the integrity of the court.

**ANNEXURE: LIST OF JUDGMENTS CONSIDERED****Reported decisions**

- Afriblaze Leisure (Pty) Ltd and Others v Commission On Restitution of Land Rights I* [2010] 3 All SA 559 (LCC)
- Africon Engineering International (Pty) Ltd and Another v The Taxing Master No and Others* 2005 (6) SA 397 (C)
- Arendse v Arendse and others* 2013 (3) SA 347 (LCC)
- Brown and Others v Reilly's Attorneys: In Re Van Der Merwe v Brown And Others* 2006 (1) SA 140 (C)
- Daljosaphat Restorations (Pty) Ltd v Kasteelhof CC* 2006 (6) SA 91 (C)
- Denmar Trading Bk and Others v Corporation Retail S.E. (Pty) Ltd* [2008] 1 All SA 47 (C)
- Department Of Land Affairs v Witz: In Re Various Portions Of Grassy Park* 2006 (1) SA 86 (LCC)
- Drumearn (Pty) Ltd v Wagner and others* 2002 (6) SA 500 (LCC)
- Dulabh and another v Department Of Land Affairs* 1997 (4) SA 1108 (LCC)
- Du Preez v Tserema and Others* [2000] 3 All SA 374 (LCC)
- Bergboerdery v Makgoro* 2000 (4) SA 575 (LCC)
- Ex Parte Beukes and Bekker* [1998] 1 All SA 34 (LCC)
- F v Minister of Safety and Security and Another* 2014 (6) SA 44 (LCC)
- Fey NO v Van Der Westhuizen and Others* 2005 (2) SA 236 (C)
- Gendor Holdings Ltd v City Fishing Holdings (Pty) Ltd; Breemond Trust (Intervening Party)* [2007] 3 All SA 400 (C)
- Glen Elgin Trust v Titus and Another* [2001] 2 All SA 86 (LCC)
- Government, Western Cape, And Another* 2005 (3) SA 576 (C)
- Seria v Minister of Safety and Security and Others* 2005 (5) SA 130 (C)
- GS Fouche Vervoer Bk v Intercape Bus Service* [2006] 1 All SA 24 (C)
- Hen-Boisen and Another NNO v Loliwe* 2000 (1) SA 796 (LCC)
- Hlatshwayo and others v Hein* 1999 (2) SA 834 (LCC)
- Holdengarde v Zondi and another* [2000] 4 All SA 319 (LCC)
- Joseph Baynes Board of Administration v Dlamini and another* [2000] 4

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All SA 324 (LCC)

*Kara NO and Others v Department of Land Affairs* 2005 (6) SA 563 (LCC)

*Khumalo and others v Potgieter and Others* (2000) 2 All SA 456 (LCC)

*Mahlangu v De Jager* 2000 (3) SA 145 (LCC)

*Move on up 254 (Pty) Ltd v Martin Kruger Associates CC and Another* (2011) 2 All SA 369

*Mufi v Klingenberg* 1999 (2) SA 674 (LCC)

*Makume v Cape Joint Retirement Fund and Another* [2007] 2 BPLR 174 (C)

*Mgro Properties (Pty) Ltd and Another v Snyers and Another* [2014] 4 All SA 235 (LCC)

*Minister of Safety and Security and Another v Mhlana* 2011 (1) SACR 63 (WCC)

*Motlhaudi and another v Rossouw and Others* [2001] 4 All SA 334 (LCC)

*National Director of Public Prosecutions v April and Another* [2007] 4 All SA 1183 (C)

*National Director of Public Prosecutions v Van Heerden and Others* 2004 (2) SACR 26 (C)

*Nkomazi Municipality v Ngomane of Lugedlane Community and Others* [2010] 3 All SA 563 (LCC)

*Pakule v Minister of Safety and Security and Another; Tafeni v Minister of Safety and Security and Another* 2011 (2) SACR 358 (SCA)

*Phillips v Minister of Rural Development and Land Reform and Another* [2014] 4 All SA 100 (LCC)

*Ponelat v Schrepfer* 2012 (1) SA 206 (SCA)

*Ps Booksellers (Pty) Ltd and Another v Harrison and Others* 2008 (3) SA 633 (C)

*Quinella Trading (Pty) Ltd and Others v Minister of Rural Development and Others* 2010 (4) SA 308 (LCC)

*Randall and Another v Minister of Land Affairs; Knott and another V Minister of Land Affairs* 2006 (3) SA 216 (LCC)

*S v Kriel* 2012 (1) SACR 1 (SCA)

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*Van As v Road Accident Fund* 2012 (1) SA 387 (SCA)

*Van Wyk v Khosa* [2001] 3 All SA 248 (LCC)

*Van Zuydam v Zulu* 1999 (3) SA 736 (LCC)

*Wichmann NO and Another v Langa And Others* 2006 (1) SA 102 (LCC)

### **Unreported decisions**

*ABJ Boerdery v Mzamo and another* (LCC46r/01) [2001] ZALCC 11

*Amfarms Realisation Company Limited And Others v Hontyi And Others, Anglo American Farms Limited And Another v Claasen And Others; Anglo American Farms Limited And Another v Lufefe; Anglo American Farms Limited And Another v Williams And Others; Anglo American Farms Limited And Another v Klaase; Mfazo And Others v Amfarm Realisation Company Limited and Others* (LCC76/05, LCC77/05, LCC78/05, LCC79/05, LCC80/05, LCC101/05) [2007] ZALCC 10

*Amfarms Realisation Company Ltd v Vikilahle; Anglo American Farms Ltd V Simons; Anglo American Farms Ltd v Lufefe; Amfarms Realisation Company Ltd v Bierwinkel* 2006 JDR 0828 (LCC)

*Beneke v Mashinini and another* (LCC57r/02) [2002] ZALCC 61

*Bezuidenhout and others v Commission on Restitution of Land Rights and Others* (LCC120/2006) [2008] ZALCC 13

*Clos Cabriere Estate (Pty) Ltd v Johannes* (LCC12r/98) [1998] ZALCC 16

*Conradie v Geduld and another* (LCC60r/01) [2001] ZALCC 22

*Democratic Alliance Western Cape and Others v Minister of Local Government* 2005 JOL 13412

*Department Of Land Affairs v Various Portion of Grassy Park* 2000 JDR 0682 (LCC)

*De Rust Estate v Van Rooyen and Others* (LCC74r/02) [2002] ZALCC 40

*De Villiers Familie Trust v Hermanus and another* (LCC42r/02) [2002] ZALCC 19

*De Wit v May* (LCC45r/03) [2003] ZALCC 15

*Embrator Investments (Pty) Ltd v De Koker and another* (LCC11r/98) [1998] ZALCC 17

*Erasmus v Mothoale and Others* (LCC62r/99) [1999] ZALCC 54

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*Florence (Dodgen) v Government of the Republic of South Africa and another* (LCC148/2008) [2013] ZALCC 11

*Gelant v Donkerhoek Fruit Syndicate (Pty) Limited and Another* [2012] JOL 29290 (LCC)

*Geldenhuis v Msimang & Another* [2005] JOL 14237 (LCC)

*Glover and Others v Sethuoa and another* (LCC54R/00) [2000] ZALCC 30

*Gounden v Properties Formerly Known as the Farm Cato Manor No 812* (LCC87/99) [2003] ZALCC 11

*Greater Tenbosch Land Claims Committee and Others v Regional Land Claims Commissioner and Others* (74/06) [2010] ZALCC 25

*Halle and Another v Downs* (LCC78r/2007) [2008] ZALCC 15

*Hoogenboezem v Minister of Rural Development and Land Reform And another* (LCC 68/2005) [2013] ZALCC 5

*Inhoek Varkboerdery (Edms) Bpk v Kok and Others* (LCC03r/05) [2005] ZALCC 1

*Joosten v Dlamini* 2002 JDR 0758 (LCC)

*Kara Re: Properties Formerly Known As the Farm Cato Manor No 812* (LCC44/98) [2001] ZALCC 46

*Kara v The Properties Formerly Known as the Farm Cato Manor No 812* 2005 JDR 0404 (LCC)

*Kara v The Properties Formerly Known as the Farm Cato Manor No 812* 2005 JDR 0404 (LCC)

*Kgaphola v Mogashoa* [1999] JOL 4424 (LCC)

*Labuschagne v Samson and another* (LCC69r/01) [2001] ZALCC 33

*Local Trustees of Brownlee Congregational Church and Another v Goldacre and another* (LCC21/97) [1998] ZALCC 5

*Mabena and others v Puntlyf 520 Investments and Others* (LCC 79/04) [2007] ZALCC 26

*Makhaza v FCL Farming CC and another* (LCC 59/2009) [2010] ZALCC 20

*Makhukhuza Community Claimants* (LCC 04/2009) [2010] ZALCC 26

*Makhukhuza Community Claimants Ltd* 2010 JDR 1436 (LCC)

*Malan v Bailey and Others* 2001 JDR 0517 (LCC)

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*Mashilane Community and Another v Minister For Agriculture and Land Affairs and Others* (LCC74/03) [2004] ZALCC 17

*Nederduitse Hervormde Kerk (Geemente Van Ruskoppies Dwaalboom) v Kotsedi* (LCC47r/07) [2007] ZALCC 9

*Ngcobo and Another v Van Rensburg & Others* [2011] JOL 24896 (LCC)

*Olivier v Choma and another* (LCC109r/03) [2004] ZALCC 1

*Osler v Nhlapo and Others* (LCC62r/02) [2002] ZALCC 34

*Philips v Minister of Rural Development and Land Reform And another* (LCC76/2010) [2013] ZALCC 9

*Phillips v Minister of Rural Development and Land Reform And another* (LCC76/2010) [2013] ZALCC 13

*Prizetrade 44 (Pty) Ltd v Memane and Others* (LCC35/02) [2003] ZALCC 19

*Redelinghuys v Claasen and another* [1998] JOL 4153 (LCC)

*Retief v Dladla* (LCC10r/99) [1999] ZALCC 19

*Rix v Arnolds and Others* (LCC59r/99) [1999] ZALCC 62; *Mthembu v Tango; Mthembu v Motha* [1999] JOL 5123 (LCC)

*Soltman v Kotze Community Trust Re: Farm Quispberg 805 District of Calvinia* (LCC5/99) [1999] ZALCC 3

*Spies v Mahlangu* (LCC19r/00) [2000] ZALCC 11

*Swartz v Malope* (LCC83r/00) [2000] ZALCC 43

*Trustees Van Die WP Viljoen Familie Trust v Theunissen and another* 2002 JDR 0604 (LCC)

*Trustees Van Die WP Viljoen Familie Trust v Theunissen and Others* (LCC68r/02) [2002] ZALCC 41

*Uitkyk Farm Estates (Edms) Bpk v Visser And another* (LCC60/98) [1998] ZALCC 19

*Van Der Merwe v Maduna and Others* (LCCr67r/99) [1999] ZALCC 60

*Wessels v September and Others* (LCC11r/00) [2000] ZALCC 10

### **Judgments upheld on appeal**

*Chagi & Others v Singisi Forest Products (Pty) Ltd* [2006] Jol 16429 (LCC) Confirmed by the SCA on appeal in *Chagi and Others v Singisi Forest Products (Pty) Ltd* 2007 (5) SA 513 (SCA)

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*Juta v Hattingh and Others* (Lc145/2010) [2011] ZALCC 23 (30 March 2011) Confirmed on appeal by the SCA in *Hattingh and Others v Juta* 2012 (5) SA 237 (SCA) and by the CC in *Hattingh and Others v Juta* 2013 (3) SA 275 (CC)

*Mbhense v Brown and another* (LCC33/05) [2006] ZALCC 8 Upheld on appeal in *Brown v Mbhense and Another* 2008 (5) SA 489 (SCA)

*The Minister Of Defence And Another v Khosis Community At Lohatla And Others* 2005 JDR 0403 (LCC) Confirmed on appeal in *Khosis Community, Lohatla, and Others v Minister of Defence and Others* 2004 (5) SA 494 (SCA)

### **Judgments overturned on appeal**

*Allie No and Another v The Department of Land Affairs and Others* 2002 JDR 0680 (LCC) overturned on appeal in *Abrams v Allie No and Others* 2004 (4) SA 534 (SCA)

*Davis v Clutchco (Pty) Ltd* 2004 (1) SA 75 (C) overturned on appeal in *Clutchco (Pty) Ltd v Davis* 2005 (3) SA 486 (SCA)

*Hewinson & another* (223/13) [2013] ZASCA 187

*Kingswood Golf Estate (Pty) Ltd v Witts-Hewinson and Another* (WCC) overturned on appeal in *Kingswood Golf Estate (Pty) Ltd v Witts- - Hewinson & another* (223/13) [2013] ZASCA 187