

**IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
(SADC) TRIBUNAL WINDHOEK, NAMIBIA**

SADC (T) Case No. 7/2008

IN THE MATTER BETWEEN

LUKE MUNYANDU TEMBANI

Applicant

AND

THE REPUBLIC OF ZIMBABWE

Respondent

CORAM

H.E. JUSTICE A.G.PILLAY

President

H.E. JUSTICE I.J. MTAMBO SC

Member

H.E. JUSTICE DR. L.A. MONDLANE

Member

H.E. DR. R. KAMBOVO

Member

H.E. DR. O.B TSHOVA

Member

Applicants Agents:

Adv J. Gauntlett, SC

Adv F. Pelsler, Counsel

Respondent's Agents

P. Machaya, Deputy Attorney-General

N. Mutsonziwa

Hon Justice M.C.C. Mkandawire

Registrar

Mr D. Shivangulula

Court Clerk

RULING

Delivered by H.E. JUSTICE A.G.PILLAY:

IT IS ORDERED THAT:

1. The Tribunal sets aside the Preliminary Objection, abandoned by the Republic of Zimbabwe, and makes an order of costs in terms of Rule 78(2) against the Applicant therein, that is, against the Government of Zimbabwe.
2. The Republic of Zimbabwe is allowed 7 days from the date of this ruling to file its Defence to the Principal Application.
3. The Tribunal awards costs against the Republic of Zimbabwe. These costs are to be determined by the Registrar, if the parties do not agree.
4. Interim measures be and are hereby granted, as follows:
 - 4.1 The Respondent is hereby restrained from evicting the Applicant or his wife, family or employees from the farm called Remainder of Minverwag of Clare Estate Ranch in Nyazura District, Zimbabwe, and from interfering with their peaceful residence on and beneficial use of that farm, and from allowing any eviction, removal or interference, until the dispute set out in the principal

application between the same parties has been finally heard and determined;

and

- 4.2 The Respondent is ordered to take all necessary and reasonable steps to protect the Applicant's use and occupation of the farm and protect the *status quo* on it until that matter has been finally heard and determined.

5. The Principal Application is set down for hearing by the Tribunal on Thursday 4 June 2009. The Parties are directed to ensure the pleadings are settled well before that date.

Delivered in open court thisDay of....., at Windhoek in the Republic of Namibia.

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H.E Justice Ariranga Govindasamy Pillay
PRESIDENT

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H.E Justice Isaac Jamu Mtambo, SC
MEMBER

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H.E Justice Dr Luis Antonio Mondlane
MEMBER

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H.E Dr Rigoberto Kambovo
MEMBER

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H.E Dr Onkemetse B. Tshosa
MEMBER