

4 June 2009

Case No. SADCT: 7/2008

**SOUTHERN AFRICAN DEVELOPMENT COMMUNITY TRIBUNAL**

**LUKE MUNYANDU TEMBANI**  
**v.**  
**THE REPUBLIC OF ZIMBABWE**

**RULING**

BEFORE: PRESIDENT: A. G. Pillay  
JUDGES: Dr. L. A. Mondlane; I. J. Mtambo; Dr. R. Kambovo; Dr. O. B. Tshosa

Citation: Tembani v. Zimbabwe, Ruling, Case No. SADCT: 7/2008 (SADC, June 4, 2009)  
Represented APPLICANTS' AGENTS: J. J. Gauntlett; F. Pelsler  
By: RESPONDENT'S AGENTS: P. Machaya and N. Mutsonziwa

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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 this ..... Day of ....., at Windhoek in the Republic of Namibia.

H.E Justice Ariranga Govindasamy Pillay  
PRESIDENT

H.E Justice Isaac Jamu Mtambo  
SC MEMBER

H.E Justice Dr Luis Antonio Mondlane  
MEMBER

H.E Dr Rigoberto Kambovo  
MEMBER

H.E Dr Onkemetse B. Tshosa  
MEMBER