



**IN THE LAND COURT OF SOUTH AFRICA
HELD AT RANDBURG**

CASE NO: LCC79/2023

Before: Honourable Meer J

Heard on: 24 to 27 March 2025 and 23 April 2025

Delivered on: 2 June 2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES / ~~NO~~

(2) OF INTEREST TO OTHER JUDGES: YES / ~~NO~~

(3) REVISED: ~~YES~~ / NO

02/06/2025

DATE


SIGNATURE

In the matter between:

FATHAR SINGH o.b.o. SINGH FAMILY.

Plaintiff

and

**THE MINISTER OF AGRICULTURE,
RURAL DEVELOPMENT AND LAND REFORM**

Defendant

**THE REGIONAL LAND CLAIMS COMMISSIONER
KWA ZULU NATAL**

Participating Party

ORDER

1. The Defendant shall pay the Plaintiff the sum of R1,017,912.00 (One million and seventeen thousand, nine hundred and twelve rand) as just and equitable compensation arising from the dispossession of Portion 7 (of 1) of the Farm Millie Hoogte No 994.
2. The Defendant shall pay the Plaintiff the sum of R33,580,332.00 (thirty three million five hundred and eighty thousand three hundred and thirty two rand) as just and equitable compensation arising from the dispossession of Portion 43 (of 12) of the farm Broughton No 925 FT.
3. The Defendant shall pay the Plaintiff's costs on a scale as between party and party such to include the costs of counsel.
4. The Defendant shall further pay the qualifying costs of the Plaintiff's expert witness Mr Alan Stephenson, such to include the costs of expert reports, court attendances, consultations and travelling costs.

JUDGMENT

MEER J

Introduction

[1] This is a claim for restitution of rights in land in terms of the Restitution of Land Rights Act 22 of 1994 ("the Restitution Act"), in which the Plaintiff seeks equitable redress¹ in the form of financial compensation. The Plaintiff brings the claim on behalf of himself and his four sisters ("the Singh family"), as direct descendants of their late father who was dispossessed of two farms under the Group Areas Act 77 of 1957 ("the Group Areas Act").

¹ Chapter I of the Restitution Act defines equitable redress as:

"Equitable redress" means any equitable redress, other than the restoration of a right in land, arising from the dispossession of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices, including-

- (a) the granting of an appropriate right in alternative state-owned land;
- (b) the payment of compensation;

[2] The claim is in respect of the following properties, ("the farms/subject properties") described as follows:

- 2.1. Sub 7 (of 1) of the farm Millie Hoogte No 994 ("Millie Hoogte") in the extent of 17.1409 hectares situated in Msunduzi Local Municipality under uMgungungdlovu District Municipality, Kwa Zulu Natal.
- 2.2. Sub 43 (of 12) of the farm Broughton No 925 ("Broughton") in the extent of 194.7953 hectares situated in Msunduzi Local Municipality under uMgungungdlovu District Municipality, Kwa Zulu Natal.

The Defendant, the Minister of Rural Development and Land Reform agrees to the compensation amount of R1,017,912.00. (One million and seventeen thousand, nine hundred and twelve rand) claimed in respect of Millie Hoogte but contests the compensation claimed for Broughton, as appears more fully below.

[3] The claim was lodged by the late Fathar Singh who was the registered owner of the farms. Upon the death of Fathar Singh in 2010, the claim was pursued as a descendant's claim in terms of section 2 (1) (c) of the Restitution Act by his son Adith Fathar Singh, on behalf of the Singh family. The late Fathar Singh, who was classified Indian, was forced to sell the farms to persons of the white group in terms of the Group Areas Act, a racial law which designated the area in which the farms are located, for occupation and ownership of persons falling within the white group.

[4] It is common cause between the parties that the late Fathar Singh was dispossessed of his rights in land as a result of a past racially discriminatory law as contemplated in section 2 (1) of the Restitution Act. It is further common cause that at the time of dispossession he did not receive just and equitable compensation.

[5] The parties are in agreement that the just and equitable compensation payable in respect of the farm Mielie Hoogte is R1,017,912.00. (One million and seventeen thousand, nine hundred and twelve rand) They have accepted the valuation in this amount of the Plaintiff's valuer, Mr Alan Stephenson, of the under compensation at the time of dispossession escalated to current day value using the Consumer Price Index. I am

satisfied that the valuation in this amount has been properly arrived at based *inter alia* on comparable historical sales data, solatium and the factors prescribed in section 25(3)² of the Constitution for determining just and equitable compensation. I intend making an order for awarding payment of the said amount to the Plaintiff as just and equitable compensation in respect of Millie Hoogte

[6] The parties have not reached agreement on the just and equitable compensation payable in respect of Broughton. Their main point of departure is the extent of land that was under irrigation in 1980 at the time of dispossession. The Plaintiff contends that at least 156 hectares of Broughton was under irrigation at the time of dispossession. The Defendant contends that only 21 hectares of Broughton was under irrigation at the time. The greater the extent of land determined to be under irrigation, the greater the compensation, the Plaintiff will be entitled to.

[7] The issue for me to determine therefore, is firstly the extent of irrigated land on Broughton at the date of dispossession and secondly, the just and equitable compensation payable to the Singh family for the dispossession. To assist me in my task I heard the testimony of the Plaintiff, his cousin Mr Ajay Singh and expert valuer Mr Alan Stephenson, on behalf of the Plaintiff. On behalf of the Defendant, the evidence of expert valuer Mr Gildenhuys, and of Mr Rencken, the current owner of Broughton, was lead. I also had the benefit of reports by both valuers. I heard evidence and argument in Durban in a trial that spanned a week. Mr Chetty appeared for the Plaintiff and Mr Zulu for the Defendant.

Background Facts and Evidence

[8] The subject properties are situated in the New Hanover area of Kwa Zulu Natal, approximately 33 km from Pietermaritzburg. Access to the properties is via the R33.

² Section 25(3):

(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including: -

- (a) the current use of the property;
- (b) the history of the acquisition and use of the property;
- (c) the market value of the property;
- (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- (e) the purpose of the expropriation.

The properties are zoned agricultural and comprise high potential arable land. The Plaintiff's assertion that the properties are regarded as some of the most sought after agricultural land in Kwa Zulu Natal was unrefuted.

[9] The original farms Broughton and Mielie Hoogte were previously owned by the late Mr Mypath Singh, the Plaintiff's grandfather. Upon his death he bequeathed the farms in equal shares to his sons, Parthab Singh and Fathar Singh, the latter being the Plaintiff's father. The brothers entered into a redistribution agreement and undertook a subdivision of Broughton. Pursuant thereto Fathar Singh acquired 194,7953 hectares of the original farm Broughton and took over sole ownership of Millie Hoogte. Parthab Singh acquired the balance of Broughton, being 192,7300 hectares. He farmed productively and lucratively throughout his ownership of the farm.

[10] As aforementioned, the area in which the subject properties are situated, was declared to be for persons of the white group only, in terms of the Group Areas Act, and it became no longer possible for Fathar Singh to continue to own his farms. He was by law forced to sell them to persons of the white group.

[11] On 28 May 1980, Fathar Singh forcibly sold Portion 43 of Broughton for R188000.00 (One hundred and eighty-eight thousand rand) to Mpolweni Properties Pty Ltd, an entity owned by a person of the white group, Mr Rencken. It is common cause that this sum was well below the market value of the farm at the time and moreover that it did not constitute just and equitable compensation in terms of section 25 (3) of the Constitution. Mr Rencken continued the productive and lucrative farming operations on the farm. Upon his death, the farm was passed on to his son Arthur Rencken who is still the current owner. The current unrefuted market value of Broughton is R41 975, 416 (forty one million, nine hundred and seventy five thousand, four hundred and sixteen rand).

[12] Fathar Singh was similarly forced to sell Millie Hoogte to a person of the white group, a Mr Rodger Farren, which he did for R16000 (sixteen thousand rand) earlier, in January 1976. Astonishingly, Mr Farren resold the farm to a Mr Roodt, also of the white group two months later in March 1976 for R32000, at a profit of 100%.

[13] It is unrefuted that there has always been a plentiful supply of water to the subject properties. The supply of water in 1976 and 1980 was sufficiently secure to irrigate 80 % of both farms. Water security was provided by the Mpolweni River, a tributary of the Umgeni River and the dams in the area. A number of dams on the Mpolweni River upstream from the subject properties, ensure water security to both farms. The Mpolweni River feeds the Clan Dam which feeds the Newington Dam which in turn feeds the Crammond Dam. The Grencester Dam, situated on tributaries of the Mpolweni River also feeds the Mpolweni River.

[14] At the time of the dispossessions, the subject properties enjoyed water rights which entitled Mr Fathar Singh to draw sufficient water to irrigate both farms, provided sufficient water was allowed to go to downstream farms. Currently, Broughton has approximately 140 hectares under irrigation, mostly from two centre pivots and enjoys water rights over its entirety. The statement in Mr Stephenson's report that this illustrates that there was sufficient water to irrigate the subject properties at the date of dispossession, was unchallenged.

[15] The subject properties enjoy exceptionally good Hutton type soil suitable for intensive farming. They are currently used for sugar cane, soya beans and maize production under irrigation.

[16] The Valuers, with reference to comparable sales in the area agreed on the following values in relation to Broughton:

16.1. As of 1980 the per hectare value of timberland was R2300 and the value of arable land was R1500.

[17] On a consideration of the valuation reports, I accept these values. In addition they agreed, and I accept, that in accordance with general valuation practice, the contributory value of the buildings should be set at 11,11% of the gross value of the farm, and that solatium should be calculated in accordance with the Expropriation Act 63 of 1975.

[18] As aforementioned, the issue that remains in contention is the extent and value of irrigated land on Broughton at the date of dispossession. The evidence, as appears below, focused on this aspect.

Evidence

The Evidence of the Plaintiff Mr Adith Fathar Singh

[19] The Plaintiff testified as follows:

- 19.1. He was born on the farm Broughton in 1968. When his father acquired ownership of Broughton in 1971 from his father, it was a fully operational commercial farm. From the age of 7, the Plaintiff rode around the farm on a tractor and whilst he was 12 when the farms were dispossessed, he had a good knowledge and memory of activities on the farm. They specialized in cabbages, maize and potatoes. There were side crops of habbard squash, calabash and butternut.
- 19.2. The greater part of the subject properties was irrigated. At least 80% of Broughton was under irrigation and not only 21 hectares as contended by the Defendant. The farm had an underground irrigation system with valves/taps above ground to which pipes and sprinklers were attached for maximum crop irrigation. There was a big 6-cylinder diesel engine “coupled” to a water pump at the Mpolweni River “pushing water up. An engine this big would not have been needed to irrigate 21 hectares. Due to the magnitude and extent of the irrigation operations, a tractor and trailer with a crew of farmworkers, had the full time task of moving the surface irrigation pipes and sprinklers.
- 19.3. The farm was highly productive:
 - 19.3.1. It supplied about 60 tons of dry maize per day per growing season to KSM Exporters, the biggest exporter of maize at the time;
 - 19.3.2. It supplied cash crops on a wholesale basis to the municipal markets in Pietermaritzburg, Durban and Stanger and to retailers and hawkers;

- 19.3.3. It supplied vegetables directly to some 30 to 40 hawkers who would come with bakkies to buy produce directly from the farm;
- 19.3.4. The farm was highly profitable. Cabbages, planted in an area of 150 hectares of the farm, would have generated a gross income in 1980 of R22,500,000.00 (twenty-two million five hundred thousand rand).
- 19.4. A set of current and historic photographs, depicted the current cultivation and cultivation around the time of dispossession. The farm was cultivated in 1980 to the same extent of cultivation as depicted in a photograph of Broughton in September 2024. The 1979 photographs of the potato crop, cane fields, maize, cabbage and dry maize crops, depict this.
- 19.5. There were 7 or 8 tractors on Broughton, trailers, three trucks, harvesters, planters, fertilizer spreaders, crop sprayers and a bulldozer. All of this would not have been required if only 21 hectares was under cultivation. About 80 labourers lived on the farm. In addition, several workers would be fetched from the nearby township as day labourers.
- 19.6. In addition to cultivating, there were cows that provided the family with milk, sheep and chickens on the farm. About ten to twenty hectares was under timber.
- 19.7. Broughton had the following improvements:
- 19.7.1. A 3-bedroom house which was the original family home;
- 19.7.2. A newly constructed 3-bedroom house that became the new family home;
- 19.7.3. A 1000 meter storage shed, a 300 square meter workshop, staff quarters, an irrigation system and Eskom electricity supply.
- 19.8. The Singh family enjoyed a high standard of living and a carefree life. The Plaintiff's father was the first person in the area to own a jaguar motor vehicle, and in 1971 his father, like the then Prince Charles,

became the owner of a Rover, a sense of pride to the family. In about 1978 two years before the dispossessions, his father built a new house for the family on Broughton.

19.9. After the dispossessions the family suffered great hardship. The Plaintiff's father was a broken man and the family fortunes and lifestyle waned dramatically. They lost their income from commercial farming and with it, their home. The family was forced to move to a relative's leased farm where they lived for several years. His father eked out a living building dams on neighbouring farms from time to time, with the Plaintiff's help. These endeavours however proved unsuccessful. Left without financial resources, the Plaintiff's plans of studying animal husbandry at agricultural college were dashed, and his siblings were unable to go to University.

19.10. In 1989, his father was able to buy a house for about R350 000 (three hundred and fifty thousand rand), with a bank loan of R270, 000. (two hundred and seventy thousand rand). The 400 square meter new home provided little solace as compared to the large farms he was dispossessed of. His father eventually became ill and died in March 2010, leaving no estate.

19.11. In contrast Mr Rencke who acquired Broughton due to the dispossession, carried on the flourishing commercial farming operations and acquired a chain of Spar supermarkets, a fate which his father could have enjoyed. Instead, "the man who drove a rover and a jaguar died without an estate".

[20] For generations the Singh family had been commercial farmers, and had it not been for the dispossessions, he and his son would have continued the tradition and enjoyed the good fate of the Renckens.

[21] During cross examination, Mr Singh vehemently denied that only 21 hectares of Broughton was under irrigation. He emphasized that the Singhs were accomplished commercial farmers for whom it would make no sense to irrigate and utilize only 21 hectares. The extent of the farming operations on Broughton could not have been

conducted on only 21 hectares. He further denied that his age at the time of dispossession had a bearing on his testimony.

[22] The Plaintiff was a credible and convincing witness whose evidence withstood cross examination. He clearly, calmly and concisely relayed information and detail about the family history before and after dispossession, and the farming operations on Broughton. Whilst issue was taken with his age at the time of dispossession, his description of the farming operations remained intact and were not challenged. The common cause fact that Broughton has continued to be farmed on a similar scale commercially, lends further credence to his testimony about the farming operations. I accept the Plaintiff's testimony

Testimony of Ajay Singh

[23] Mr Ajay Singh, aged 63 is the first cousin of the original claimant, Fathar Singh, the Plaintiff's late father. His unrefuted testimony was that from the age of 6 he frequently drove around Broughton in the company of the Plaintiff's grandfather, the late Mypath Singh. He observed a tractor engine pumping water from the Mpolweni river and pipes spraying water on the farm. His visits to the farm were interrupted, but resumed in 1974 and continued until 1979, the year before the farm was sold, when he was 17. During this time, he stayed on the farm at least three weekends each month.

[24] He corroborated the evidence of the Plaintiff about the extent of irrigation on Broughton, saying, from what he could see more than 60 to 70 % of Broughton was under irrigation. He emphasized that most of the farm was green with crops which could not grow without irrigation. He also corroborated the Plaintiff's testimony about the scale of the commercial farming enterprise on Broughton, the types of crops grown, the equipment, the farm buildings and labour force whilst under the Singh family ownership.

[25] Mr Ajay Singh was a credible and reliable witness whose testimony withstood cross examination.

Testimony of Plaintiff's Expert Valuer, Alan Stephenson

[26] Mr Alan Stephenson, a director of Mills Fitchet Valuers, is a professional valuer and appraiser. He has years of experience both as an expert witness and an appointed assessor of this Court. He was instructed by the Plaintiff to conduct a historical valuation of the subject properties. He was also required to consider whether the compensation paid at the time of dispossession was just and equitable and if not, what the shortfall, equated to present day value, is. As noted by him, this entailed that the figures be updated by the Consumer Price Index ("CPI) as referred to in *Florence v Government of the Republic of South Africa 2014 (6) SA 456 (CC)* ("*Florence*").

[27] Mr Stephenson visited Broughton, consulted with the Plaintiff and read the latter's affidavit in response to the referral report. He interviewed the current owner, Mr Rencken, telephonically as the latter was not available when he visited the farm. Mr Stephenson was informed by the Plaintiff that 80 to 90% of Broughton was under irrigation at the time of dispossession. He based his assessment of 80% under irrigation after his consultation with the Plaintiff and on the contents of his affidavit. He did not ask the current owner about the extent of irrigation at Broughton in 1980, as he was not aware that he knew anything about this. He had spoken to a Mr Ringelman, the owner of one of the comparable sales, and the current owner of Mieliehoogte. Mr Ringelman confirmed that 80% of Mieliehoogte was under irrigation at the date of its dispossession.

[28] Mr Stephenson calculated 80 % of Broughton to comprise 156 hectares of the 194.753 hectare total extent of Broughton. He testified that with the secure water supply to the farm from the Mpolweni River and the three dams in the area, Broughton would have had sufficient water to irrigate 156 hectares. Currently almost 100% of Broughton is under irrigation.

[29] He testified that the Defendant's calculation of 21 hectares under irrigation in 1980, based on historic 1978 aerial imagery reconciled with a google earth computer generated application, could not be relied upon. The aerial imagery is not of the year 1980 when the dispossession occurred and it is impossible, he said to make out from the image what was irrigated. The irrigation pipes were in any case underground, he

pointed out. The clearest indication of the extent of irrigation on Broughton, is that Mieliehoogte was irrigated to 80 % in 1976 as agreed to by both valuers. There is no reason, he said, why Broughton, of similar ilk to Millie Hoogte, should not have been irrigated to 80 % by 1980.

[30] Mr Stephenson calculated the historical market value of irrigated land in 1980 to be between R3,672 (three thousand six hundred and seventy two rand) to R3,678 (three thousand six hundred and seventy eight rand), having regard to the following three comparable sales in particular:

- 30.1. 27.1 Comparable Sale 1, being the sale of farm Millie Hoogte No 994, (one of the subject properties) from Mr Farren,(who bought it on 1 January 1976 for R16000 (sixteen thousand rand) from the Plaintiff's father), to E.S. Roodt for R32000.00 (thirty two thousand rand) on 10 March 1976. The undisputed value of irrigated land on Milliehoogte in 1976 was R2,285 (two thousand two hundred and eighty five rand). Mr Stephenson escalated this value using the Consumer Price Index to arrive at a value of R3672 to R3,678 h/a for January to May 1980. The just and equitable compensation agreed upon between the valuers for Millie Hoogte, accepted this method of valuation.
- 30.2. Comparable Sale 2, being the sale of Portion 44 of the Farm Broughton on 2 December 1977. It was undisputed that the value of irrigated land as of that date had increased to R2,696 (two thousand six hundred and ninety six rand) as reflected by Mr Stephenson.

[31] In addition, he noted that comparable sale 5, being the sale of Portion 31 of the farm Mooiplaas in October 1981 for R193 000.00, (one hundred and ninety three thousand rand), reflected an increase in the value of dryland to R1995 in 1981 from R1098 in sale 2 in 1977, a considerable increase in value.

[32] During cross examination, it was put to Mr Stephenson that other than sales 1 and 2 in 1976 and 1977 which had irrigated lands, he did not have a comparable sale in 1980 under irrigation. Mr Stephenson did not see this as a problem. He said he had

escalated the 1976 and 1977 values of irrigated land using the consumer price index to arrive at a 1980 value which was conservative in his view. He emphasized that comparable sale 5 showed there was a 23 to 43% increase in value up to 1981. He added that the fact that he could not find comparable sales of irrigated land in 1980 must be viewed in context with his comparables. Mr Stephenson was not challenged further on this aspect.

Stephenson's valuation calculations

Market value at 1980

[33] Applying the agreed per hectare values, of timber land and arable land as well as the value of R3675.00 (three thousand six hundred and seventy five) per hectare to 156 hectares of irrigated land, Mr Stephenson arrived at a total land value of R644 642.95,(six hundred and forty four thousand six hundred and forty two rand and ninety five cents) at 1980. To this he added the value of the buildings which he determined to be R71, 620.00 (Seventy one thousand six hundred and twenty rand) (at the rate of 11.111% of the land value), to arrive at a market value of Broughton at dispossession rounded to the figure of R716,300.00, (seven hundred and sixteen thousand three hundred rand), as opposed to the purchase price of R188,000.00 (one hundred and eighty eight thousand rand) paid to Fathar Singh when he was forced to sell.

Actual Financial loss and Solatium

[34] Mr Stephenson added transfer duty in the sum of R28,252.00³ (twenty eight thousand two hundred and fifty two rand) as actual financial loss and solatium of R36,489.00⁴ (thirty six thousand four hundred and eighty nine rand) to arrive at a final rounded market value of R781,240.50 (seven hundred and eighty one thousand, two hundred and forty rand and fifty cents) upon dispossession in 1980.

Application of factors set out at Section 25 (3) of the Constitution

³ 3% on first R10000,4% on excess over R10000, less 67% off the first R5000. Refer to Stephenson's table attached.

⁴ Calculated in accordance with the Expropriation Act 63 of 1975.

[35] Mr Stephenson considered the factors set out at Sections 25(3) (a) to (d) of the Constitution quoted above, for determining just and equitable compensation and made no adjustments to the 1980 market value. These were:

- 35.1. Section 25(3) (a), the current use of the property for sugar cane farming;
- 35.2. Section 25(3)(b), the history of acquisition and use of the property for crop and timber farming;
- 35.3. Section 25 (3) (c), the market value;
- 35.4. Section 25 (3) (d), the extent of direct state investment, being nil
- 35.5. Section 25 (3)(e), the purpose of the expropriation, being the Group Areas Act

[36] After conducting this exercise, Mr Stephenson arrived at the sum of just and equitable compensation payable at date of dispossession to be R781,240.50 (seven hundred and eighty one thousand two hundred and forty rand and fifty cents).

Less compensation received

[37] From his calculation of just and equitable compensation of R781240.50,(seven hundred and eighty one thousand two hundred and forty rand and fifty cents) Mr Stephenson deducted the sum of R188,000.00 (one hundred and eighty eight thousand rand) being the compensation or purchase price received upon dispossession, to arrive at a shortfall of R593, 241.00 (five hundred and ninety three thousand two hundred and forty one rand) at the time of dispossession at 1980.

[38] The present day value of the shortfall (28 May 1980 to March 2025) using the Consumer Price Index yielded a figure of R20,274,825.00 (twenty million, two hundred and seventy four thousand eight hundred and twenty five rand). This according to Mr Stephenson is the total compensation due.

[39] Mr Stephenson's table capturing the above calculations is set out below.

Broughton	
Market Value as at 28 May 1980 including Land & Improvements (Including Actual Financial Loss and Solatium)	
Ptn 43 of the Farm Broughton No 925 FT	
Calculation of Under Compensation Payable based on Historical Value	

Land Use				
Description	Extent (ha)	R/ha	Total	
Irrigated Lands	156.0000	R 3,675.00	R	573,300
Timberland (including standing timber) - value agreed	29.0000	R 2,300.00	R	66,700
Irrigable Lands (potential to be irrigated)	0.0000	R 2,450.00	R	4,643
Arable Land (rain fed)	3.0953	R 1,500.00	R	644,643
Vlei area	2.0000	R -		
Yard	4.7000	R -		
Total Extent (Ha)	194.7953			
Total Land Value			R	644,642.95
Contributory Value of buildings at 10% of gross value (11.111111%)			R	71,626.99
s25 3(c) - the market value of the property at dispossession (1980) – rounded			R	716,300.00
Actual Financial Loss				
*Add Transfer Duty on first R10,000 = 3%			R	300.00
Add Transfer Duty on excess over R10,000 = 4%			R	28,252.00
*Less 67% off the first R5000 (R5000 x 3% = R150 x 67% = R100.50)			R	100.50
Sub Total			R	28,451.50
Add Solatium			R	36,489.00
s25 3(c) - the market value of the property including Actual Financial Losses at dispossession (1980)			R	781,240.50
s25 3(a) - current use (Sugar cane farming) no adjustment.			R	-
s25 3(b) - the history of acquisition and use of the property (Crop and timber farming) no adjustment.			R	-
s25 3(d) - the extent of direct State investment and subsidy in the acquisition and beneficial capital improvement of the property (No State investment or subsidies were paid thus no capital improvement) no adjustment.			R	-
s25 3(e) - the purpose of the expropriation (Group Areas Act).			R	-
Just and Equitable Compensation (payable at dispossession, including losses).			R	781,240.50
Less Compensation received			R	(183,000)
Shortfall as @ 1980			R	593,241
Present day Value 28 May 1980 - March 2025 (116.2/3.4 = 34.1764)			R	20,274,825
Total Compensation due based on Historical Sales Data plus Actual Financial Losses			R	20,274,825

[40] Mr Stephenson's evidence and calculations were not challenged during cross examination and remained intact.

Testimony of Defendant's Expert Valuer, Mr Gildenhuys

[41] Mr Gildenhuis has been a professional valuer since 1994 and is also a commercial farmer. In preparing his valuation report, Mr Gildenhuis conducted a physical inspection of the farm Broughton and consulted the current owner of the farm, Mr Rencken. His valuation was based on 5 comparable sales which he identified as enjoying similar attributes to the farm Broughton.

[42] His conclusion that only 21 hectares of Broughton was under irrigation at the time of dispossession was based solely on information he received from Mr Rencken. This information emanated from what he described as "google earth technology" which Mr Rencken had sourced. Mr Gildenhuis had no idea what system or programme Mr Rencken had applied to source the information, nor he said, did he have any insight into how Rencken had arrived at his calculation. He had simply accepted Mr Rencken's calculation. He added that Mr Rencken told him (Gildenhuis) that he was able to establish the extent of the Singh's original irrigation piping, as he had helped his father to dig up the Singh's irrigation pipes, during visits to Broughton on weekends and holidays when he was at agricultural college.

[43] It was an oversight on his part, he said not to have credited Mr Rencken for his part in the report. Likewise, he had omitted to state that he had met with the Plaintiff prior to preparing his report.

[44] Mr Gildenhuis had applied a computer generated calculation from Mr Rencken to an aerial photograph of Broughton taken in June 1978, obtained from the Surveyor General's Office. When confronted during cross examination with the improbability of the google data depiction of irrigated land only on one side of the main irrigation pipe depicted on the image, he conceded this made no farming sense as the land on the other side of the pipe was also irrigable through the main irrigation pipe.

[45] Mr Gildenhuis disagreed with Mr Stephenson's use of the consumer price index to escalate the value of irrigated land from 1976 and 1977 to arrive at a 1980 value of between R3,672 (three thousand six hundred and seventy two rand) to R3,678 three thousand six hundred and seventy eight rand). Mr Gildenhuis's value was R2300 (two thousand three hundred rand) per hectare for irrigated land in 1980,

which he said was based on farm land price indices. However, neither these indices nor the calculation based thereon to arrive at R2300 (two thousand three hundred rand) were mentioned in his report, he conceded. During cross examination he was unable to explain why he had accepted the use of the Consumer Price Index in the escalation of values in respect of Mr Stephenson's agreed value of the farm Mieliehoogte, but rejected the use of the Consumer Price Index for the increase in value of irrigation land in Broughton.

[46] During cross examination Mr Gildenhuis increased the area of land under irrigation on Broughton to 34 hectares in 1980 as per an amended calculation he said he had received from Mr Rencken. It emerged from Mr Rencken's testimony, as appears below, that this information was relayed to Mr Gildenhuis whilst he was under cross examination. How this increased figure was arrived at was not explained.

[47] During cross examination Mr Gildenhuis conceded the following with regard to the comparable sales he relied upon in his report:

- 47.1. Comparable Sales 1 and 2 were dissimilar to Broughton as these farms comprised lowly valued rain fed arable land whereas Broughton had highly valued irrigated land. They were also much smaller in extent than Broughton. Comparable Sale 1 was 28.32 ha and Comparable 2 was half the size of Broughton.
- 47.2. Comparable Sales 3, 4 and 5 involved one Mr Farren, a property speculator of the White group who bought farms cheaply from Indian persons who were forced to sell due to the Group Areas Act, and resold to white persons at a profit. He was unable to refute that these sales of properties, the prices of which were distorted by the Group Areas Act, were unreliable.

[48] He further conceded that based on statistics from the Department of Agriculture, Environmental Affairs and Rural Development for Kwa Zulu Natal, included in his report, that Broughton was capable of yielding 27 000 (twenty seven thousand) tons of cabbage per year as testified by Mr Singh and that 21 or 34 hectares of irrigated

land was incapable of yielding 27 000 (twenty seven thousand) tons of cabbage. In this respect ironically, he corroborated the evidence of the Plaintiff concerning cabbage yields on Broughton.

[49] Despite conceding that irrigable land was more valuable than rainfed arable land, Mr Gildenhuys refused to accept that irrigable land had to have a value higher than R1500 per hectare, the agreed value of rainfed arable land.

[50] Mr Gildenhuys was in my view an unreliable witness. His blind reliance on Mr Rencken's unexplained data calculation of 21 then 34 hectares under irrigation on Broughton was unbecoming especially of an expert witness.

[51] The discrepancies between his comparables 1 and 2 and the farm Broughton, as well as his reliance on distorted comparables 3 to 5, lead me to reject those comparables.

[52] He compounded the situation by inexplicably refusing to accept the consumer price index escalation of irrigated land on Broughton, whilst accepting the same for Mieliehoogte, and refusing to accept the higher value of irrigable land.

[53] Then too there is the unrefuted testimony of Mr Rencken that Gildenhuys spoke to Rencken whilst the former was under cross examination, conduct unbecoming of any witness let alone an expert. Finally, Mr Gildenhuys's evidence concerning Mr Rencken's telling him he was involved with digging up the irrigation pipes on Broughton was refuted by Rencken himself, as appears in the testimony of Rencken below.

[54] In view of the above I reject the testimony of Mr Gildenhuys.

Testimony of Victor Arthur Rencken

[55] Mr Rencken is a farmer and the current owner of the farm Broughton. In May 1980, as aforementioned, his late father purchased Broughton through his company,

Mpolweni Properties (Pty) Ltd from the Plaintiff's father when the latter was forced to sell it pursuant to the Group Areas Act.

[56] The Rencken family moved onto the farm after the Singh family's departure. At the time Rencken junior was a student border at Western Agricultural College in Mooi River. His visits to Broughton were only during college holidays. He denied informing Mr Gildenhuis that he established the extent of the Singhs' original irrigation piping as he helped dig out the piping during weekend visits to the farm. His father never removed the original piping as stated by Gildenhuis, but merely added new piping to the existing piping.

[57] Mr Rencken calculated that 21 hectares of land on Broughton was irrigated in 1980 by using an Application ("App") which he thought was called "Field and Area". The App, he said can measure distance manually or via GPS. He had downloaded the App from the App store on his mobile phone. He worked out the extent of the original underground piping by applying the App technology to hydrants on the ground surface, which he had learnt from his father was where the connections to the original pipes were made. The Field and Area App, calculated there were 1.28 km of original piping which covered an irrigated area of 21 hectares. He could not explain the mechanisms of this calculation.

[58] He said he digitally reproduced these results on two google maps which he had downloaded from the Internet. These maps were annexed to the report of Mr Gildenhuis as pages 305 (stating "Area 21.08 hectares and Perimeter 2.63 km") and 306 of the record (stating "Distance: 1.28km being the distance of the original pipe line.). He later discovered that he had made a mistake. With reference to the Map on page 306, he said "I looked at the area marked X to the left of a measurement of 409.07m to give me the extra 10 hectares". There was no explanation as to how he had arrived at an extra 10 hectares He did not dispute that he had informed Mr Gildenhuis about this telephonically whilst Gildenhuis was still under cross examination.

[59] During cross examination, he conceded that the App calculation of the original pipeline of 1.28km was incorrect, when Mr Chetty pointed out that the figures depicted

on the map (p306) in fact added up to 1068.42 metres and not 1.28 km. He was unable to explain the discrepancy, his best effort being, "my App doesn't let you go over the line twice", confusing information, which I am not at all sure what to make of. Nor was he able to explain what the white lines which appeared on the map were.

[60] He too conceded that 21 or 34 hectares of irrigated land could not produce annual yields of 27000 tons of cabbage, the undisputed annual yield of cabbage on Broughton, testified by the Plaintiff. In this respect he too corroborated the Plaintiff. He moreover stated that it would be an act of stupidity for a farmer with an endless water supply to irrigate only 21 hectares of land.

[61] The invitation by Mr Zulu for this Court to accept firstly, the evidence produced from an App the name of which Mr Rencken could not remember with certainty, to accept secondly, the confused explanation of surface detection of underground pipes based on hearsay evidence, and thirdly to accept an App which rendered inaccurate calculations, must be declined. So, too, the App's initial calculation of 21 then unexplained additional calculations of 34 hectares under irrigation, on Broughton in 1980. The evidence is simply not reliable. Had the Defendant wanted this evidence to be seriously considered they ought at the very least to have brought a digital expert familiar with the App who could have properly identified it and testified about its workings. I pause to note that it was disquieting to learn from Mr Zulu during argument, that he appeared not to be aware before Mr Rencken testified, that the Defendant's reliance on 21 hectares of irrigated land was based solely on information from this App

[62] I am also of the view that the evidence produced from the App would not be admissible under Section 15 of the Electronic Communications and Transactions Act 25 of 2002 (ECTA). Such evidence is a data message as defined in section 1⁵ of ECTA being, "electronic representations of information in any form."

⁵ A "data message" is defined in section 1 of ECTA to mean-
"data generated, sent, received or stored by electronic means and includes-
(a) voice, where the voice is used in an automated transaction; and
(b) a stored record-
"data" is defined as "electronic representations of information in any form".

[63] Information obtained from an App constitutes information in a form of a data message as it is generated and stored by electronic means. Therefore, the peremptory requirements on the admissibility and evidential weight as provided for by ETCA will apply.

[64] Section 15 of ECTA provides for the admissibility of data messages as follows:

"15 Admissibility and evidential weight of data messages

(1) In any legal proceedings, the rules of evidence must not be applied so as to deny the admissibility of a data message, in evidence-

- (a) on the mere grounds that it is constituted by a data message; or
- (b) if it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in its original form.

(2) Information in the form of a data message must be given due evidential weight.

(3) In assessing the evidential weight of a data message, regard must be had to-

- (a) the reliability of the manner in which the data message was generated, stored or communicated;
- (b) the reliability of the manner in which the integrity of the data message was maintained;
- (c) the manner in which its originator was identified; and
- (d) any other relevant factor.

(4) A data message made by a person in the ordinary course of business, or a copy or printout of or an extract from such data message certified to be correct by an officer in the service of such person, is on its mere production in any civil, criminal, administrative or disciplinary proceedings under any law, the rules of a self-regulatory organisation or any other law or the common law, admissible in evidence against any person and rebuttable proof of the facts contained in such record, copy, printout or extract."

[65] Given my finding that the evidence from the App is unreliable, it would simply not pass muster under Sections 15 (3) (a) and (b), and there is no evidence before me to satisfy Section 15 (3) (c). Apropos section 15 (4) the data message was not made by a person during the ordinary course of business, but even if it were, it has not been certified as required by the section. See *Ndlovu v Minister of Correctional Services and*

Another [2006] 4 All SA 165 (W), generally, on the admissibility of computer generated information. The evidence of Mr Rencken is accordingly not accepted.

Finding on the extent of Irrigated Land on Broughton at Dispossession

[66] On the basis of the evidence of the Plaintiff and Ajay Singh, and given my rejection of the evidence on behalf of the Defendant, I find that 156 hectares of irrigated land was under irrigation on the farm Broughton on 28 May 1980, the date of dispossession.

[67] Similarly, credible and reliable and of assistance to the Court was Mr Stephenson's evidence and calculations. I accept his per hectare valuation of irrigated land as escalated using the Consumer Price Index. This is in keeping with the formula accepted and applied in *Florence supra*. I accept moreover his evidence of the extent of irrigated land based on the evidence of the Plaintiff which I have already accepted for the reasons set out above. His determination of market value and the application of the factors at Section 25 (3) of the Constitution thereto, is in my view unassailable.

[68] I however do not accept his addition to market value of transfer duty of R28,451.50 (twenty eight thousand four hundred and fifty one rand and fifty cents) (calculated on market value of R716300.00 (seven hundred and sixteen thousand, three hundred rand),) as actual financial loss. Transfer duty is a tax paid by a purchaser of property. In order for the Plaintiff's father to have incurred transfer duty as an actual financial loss he would have had to have incurred transfer duty of this amount post dispossession. There was no evidence that this occurred.

[69] In this regard I respectfully disagree with the finding in *Shah v Minister of Rural Development and Land Reform and Others [2024] ZALCC 40 ("Shah")* to which I was referred by Mr Chetty, as authority for including transfer duty as actual financial loss. I note that the *Shah* judgment does not provide reasons for including transfer duty as actual financial loss. Nor, as I understand did the Plaintiff in *Shah* acquire another property and incur the expense of transfer duty.

[70] I accordingly find that the calculation of market value plus solatium to which the section 25 (3) factors were applied (of R781240.50 (seven hundred and eighty one thousand, two hundred and forty rand and fifty cents),) must be reduced by Mr Stephenson's calculation of transfer duty in the sum of R28451.50 (twenty eight thousandfour hundred and fifty one rand and fifty cents). This renders a figure of R752,789.00, (seven hundred and fifty two thousand seven hundred and eighty nine rand) less compensation of R188 000 (One hundred and eighty eight thousand rand) received in 1980, which gives a shortfall on 28 May 1980, the date of dispossession, of R564,789 (Five hundred and sixty four thousand seven hundred and eighty nine rand). The value of this figure escalated to the time of the trial, calculated by Mr Stephenson at my request is R19,302,455 (Nineteen million three hundred and two thousand four hundred and fifty five rand). I now turn to consider what just and equitable compensation should be awarded to the Singh family.

Finding on Just and Equitable Compensation

[71] In determining a just and equitable compensation for the Singh family I am enjoined to consider the factors set out at Section 33 of the Restitution Act which states as follows:

"33. Factors to be taken into account by Court

In considering its decision in any particular matter the Court shall have regard to the following factors:

- (a) The desirability of providing for restitution of rights in land to any person or community dispossessed as a result of past racially discriminatory laws or practices;
- (b) the desirability of remedying past violations of human rights;
- (c) the requirements of equity and justice;
 - (cA) if restoration of a right in land is claimed, the feasibility of such restoration;
- (d) the desirability of avoiding major social disruption;
- (e) any provision which already exists, in respect of the land in question in any matter, for that land to be dealt with in a manner which is designed to protect and advance persons, or categories of persons, disadvantaged by unfair discrimination in order to promote the achievement of equality and redress the results of past racial discrimination;
- (eA) the amount of compensation or any other consideration received in respect of the dispossession, and the circumstances prevailing at the time of the dispossession;

(eB) the history of the dispossession, the hardship caused, the current use of the land and the history of the acquisition and use of the land;

(eC) in the case of an order for equitable redress in the form of financial compensation, changes over time in the value of money;

(f) any other factor which the Court may consider relevant and consistent with the spirit and objects of the Constitution and in particular the provisions of section 9 of the Constitution. “

[72] In *Florence supra* at paragraph 124, commenting on Section 33, and equitable redress in the form of compensation, Moseneke ACJ as he then was said:

‘Equitable redress must be sufficient to make up for what was taken away at the time of dispossession. The amount of compensation has to be just and equitable reflecting a fair balance between the public interest and the interest of those affected after considering relevant circumstances listed in Section 33 of the Restitution Act. For instance, a history of hardship caused by the dispossession may entitle a claimant to a higher compensation award in order to assuage past disrespect and indignity’.

[73] Both Mr Chetty for the Plaintiff and Mr Zulu for the Defendant agreed that in keeping with the principles established by the Constitutional Court in *Florence supra* as applied by this Court and the SCA, (in the judgments discussed below), there should be an adjustment of their respective current day market values, when considering the Section 33 factors. This was *inter alia* because of the stark discrepancy between their historic market values of Broughton escalated, and the current unrefuted market value of Broughton, being R41 975 416.00 (forty one million nine hundred and seventy five thousand, four hundred and sixteen rand). The discrepancy between the sum of R19,302,455 (Nineteen million three hundred and two thousand four hundred and fifty five rand) which I have accepted above as the adjusted historic market value, and the current unrefuted market value of Broughton, being R41 975 416.00 (forty one million nine hundred and seventy five thousand, four hundred and sixteen rand) is indeed stark. Mr Chetty in addition, submitted there should be an upward adjustment due to the hardship experience by the Singh family owing to the dispossession.

[74] In *Jacobs (in re the Farm UAP) v The Department of Land Affairs and Seven Others 2016 (5) SA 382 (LCC)* (“the first *Jacobs* judgment”), and *Jacobs v Department*

of Land Affairs (LCC120/99) [2017] ZALCC 2, (“the second *Jacobs* judgment”), this Court on a consideration of the section 33 factors quoted above, adjusted historic market value upwards in determining just and equitable compensation. Both judgments were confirmed by the Supreme Court of Appeal (“SCA”) in *Jacobs (in re the farm UAP) v Department of Land Affairs and Jacobs (in re Erf 38) v Department of Land Affairs (1284/16) and (982/2017) ZASCA 122 (26 September 2019)*.

[75] In respect of the first Jacob judgment, the SCA confirmed the upward adjustment by this Court of market value of R2,423 million (two million four hundred and twenty three thousand to R10 000 000(ten million rand), on a consideration of the factors set out at Section 33 of the Restitution Act. The upward adjustment was made firstly due to the nature of the hardship suffered owing to the dispossession and secondly as stated by this Court at paragraph 117, “the grossly inequitable outcome of applying the actual financial value calculated at the time of the dispossession and today’s market value in the land.”

[76] In the second Jacobs judgment, the SCA at paragraph 27, confirmed this Court’s finding that the historic market value of R302 (three hundred and two rand) escalated by the Consumer Price Index to R52,817.00 (fifty two thousand eight hundred and seventeen rand), was a paltry figure when compared with the present day value of the land, a factor it considered under section 33 of the Restitution Act. It could not fault the Court’s reasoning in awarding R780, 000.00 (seven hundred and eighty thousand rand), as just and equitable compensation.

[77] *Izaacs v Government of the Republic of South Africa and Others (LCC 2018/206) [2023] ZALCC 30 (“Izaacs”)* is another case where, due to the discrepancy between the adjusted historic market value and the then current market value, there was an upward adjustment. The current market value as it was then, was determined by this Court to be just and equitable compensation.

[78] In *Izaacs*, similar to this matter the *Izaacs* family was dispossessed of their farm and claimed financial compensation. It was common cause that the historic market value of the farm adjusted by the Consumer Price Index at the time of the trial was

R475,000.00 (four hundred and seventy five thousand rand). However, the then current market value of the farm, cultivated as a vineyard was R1.5million. Spilg J found at paragraph 38 that the evidence demonstrated with a sufficient degree of certainty for the purposes of section 33, that the family would have remained on the land indefinitely and as entrepreneurial farmers would have used the land to best advantage. Instead, as he went on to note, at paragraph 47:

'The dispossession itself resulted in a complete reversal of fortunes for a solid farming family who had been financially well off. They were effectively reduced to the clothes on their back, unable to provide even a decent education for their children.'

[79] In the circumstances, he found that the section 33 considerations, in particular sections 33 (b), (c), (eB) and (f) should result in a substantial increase to the amount of R475000 (four hundred and seventy five thousand rand) determined as the Consumer Price Index adjusted value of the erven at the time of dispossession. This was to mitigate their hardship and suffering which was directly attributed *inter alia* to the racially motivated disrespect, hardship indignity and economic exploitation they endured. Spilg J went on to award the market value sum of R1.5 million as just and equitable compensation.

[80] The *Izaacs* case is on all fours with this matter. Here too the evidence demonstrates with a sufficient degree of certainty for the purposes of section 33, that the Singh family would have remained on the land indefinitely and as entrepreneurial farmers would have used the land to best advantage. The evidence for the Plaintiff, made clear that had the fates of the Singhs and Renckens been reversed and the Singhs been allowed to continue their lucrative farming enterprise, the Singhs too would have prospered, the Plaintiff too would have gone to agricultural college and would today be the owner of the farm, Broughton.

[81] Instead, the Singhs were stripped of their ownership of the farm and reduced to penury. The proud and affluent Senior Mr Singh, eked out a living building dams, was unable to educate his children as planned and died a broken man without an estate. His fortunes could have soared, but for the dispossession. This is a scenario

devoid of equity and justice. and clearly at odds with the equality clause at Section 9 of the Constitution.

[82] Turning again to section 33 of the Restitution Act, I am of the view that of the section 33 factors which I am required to consider, the following are particularly significant in this matter:

- (b), the desirability of remedying past violations of the Singh family's human rights occasioned by the dispossession;
- (c) the requirements of equity and justice;
- (eB) the history of the dispossession, the hardship caused to the Singh family the current use of the land as a successful farming enterprise, and the history of the acquisition and use of the land, as set out above;
- (eC) changes over time in the value of money, as per the accepted Valuations;
- (f) any other factor which the Court may consider relevant and consistent with the spirit and objects of the Constitution and in particular the provisions at section 9 of the Constitution. As aforementioned, the equality clause at section 9 of the Constitution was violated by the dispossession.

[83] Regard being had to these factors in particular, and section 33 generally, I come to the view that given the hardship experienced by the Singh family, the desirability of remedying the violation of their human rights, and the stark contrast between the adjusted historic market value of R19,302,455 (Nineteen million three hundred and two thousand four hundred and fifty five rand) which I have accepted above, and the current market value of R41,975,416.00, require an upward adjustment of the historic market value. I am of the view that the tenets of equity, justice and equality, in all of the circumstances of this case, would best be served if just and equitable compensation were to be fixed at the current market value adjusted downwards to account for unforeseen negative contingencies. After careful consideration I conclude that a downward adjustment of 20% would be equitable. In the circumstances, I determine just and equitable compensation to be R33,580,332.00 (thirty three million five hundred and eighty thousand, three hundred and thirty two rand). This, I believe to

be equitable redress, sufficient to make up for the booming farming enterprise that was taken away at the time of dispossession, and an amount that reflects a fair balance between the public interest and those of the Singh family. It is a just and equitable amount in all the circumstances, considering the current market value the history of hardship caused by the dispossession and in my view “assuages past disrespect and indignity” as referred to in *Florence supra*.

Costs

[84] In *Trustees for the Time being of the Biowatch Trust v the Registrar Genetic Resources and Others* 2009 (6) SA 232 CC at paragraph 24 it was said:

‘... particularly powerful reasons must exist for a court not to award costs against the state in favour of a private litigant who achieves substantial success in proceedings brought against it’

[85] This was echoed by this Court in a number of cases. In *Elambini Community v Minister of Rural Development and Others* LCC88/2012 [2018] ZALCC 11, this Court said at paragraph 157:

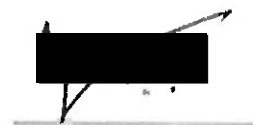
‘This Court has, in a number of cases, granted costs against the State and in favour of private litigants who have achieved substantial success in proceedings against the State. It has done so on the basis that land claims litigation, deriving as it does from Section 25 (3) of the Constitution, is in the genre of constitutional litigation. See *Makhukhuza Community Claimants (LCC 04/2009) [2010] ZALCC 26 (18 November 2010) at paragraph 30; Quinella Trading (Pty) Ltd and Others v Minister of Rural Development and Others* 2010 (4) SA 308 (LCC) at paragraph 35 and 36; *Greater Tenbosch Land Claims Committee and Others v Regional Land Claims Commissioner and Others (74/06) [2010] ZALCC 25 (15 September 2010)*.’

[86] As the Plaintiff has achieved success he is entitled to his costs. There is, I believe no justification for such to be awarded on the punitive attorney client scale as sought by the Plaintiff.

Order

[87] I order as follows:

1. The Defendant shall pay the Plaintiff the sum of R1,017,912.00 (One million and seventeen thousand nine hundred and twelve rand), as just and equitable compensation arising from the dispossession of Portion 7 of (of 1)the Farm Millie Hoogte No 994.
2. The Defendant shall pay the Plaintiff the sum of R33,580,332.00 (Thirty three million five hundred and eighty thousand three hundred and thirty two rand), as just and equitable compensation arising from the dispossession of Portion 43 (of 12) of the farm Broughton No 925 FT.
3. The Defendant shall pay the Plaintiff's costs on a scale as between party and party such to include the costs of counsel.
4. The Defendant shall further pay the qualifying costs of the Plaintiff's expert witness, Mr Alan Stephenson, such to include the costs of expert reports, court attendances, consultations and travelling costs.



Y S MEER

Judge

Land Court

APPEARANCES:

For the Plaintiff:	Adv. KP Chetty
Instructed by:	Ronell Nathanael & Company
For the Defendant:	Adv. Zulu
Instructed by:	State Attorney, KwaZulu-Natal