



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

Case number: LanC 2025 – 095596

Magistrate Court Case No.: 595/2023

Before: The Honourable Acting Judge Montzinger

Delivered: 15 December 2025

(1)	REPORTABLE: Yes ☐ / No ☒
(2)	OF INTEREST TO OTHER JUDGES: Yes ☐ / No ☒

Date: 15 December 2025

In the matter between:

HORSESHOE INVESTMENTS 0023 CC

First Applicant

ANDRE ADRIAAN BADENHORST

Second Applicant

and

ELVIN SMITH

First Respondent

CHRISTELL CHRISTINA PIETERS

Second Respondent

**AND ALL UNKNOWN PERSONS RESIDING WITH
OR UNDER THE 1ST RESPONDENTS ON THE FARM
KNOWN AS JAKKALSFONTEIN FARM,**

Third Respondent

MALMESBURY, WESTERN CAPE

SWARTLAND MUNICIPALITY

Fourth Respondent

**DEPARTMENT OF AGRICULTURAL LAND REFORM
AND RURAL DEVELOPMENT**

Fifth Respondent

**REVIEW ORDER
IN TERMS OF SECTION 19(3) OF ESTA**

Montzinger AJ:

[1] This matter serves before me on automatic review in terms of s 19(3) of ESTA, following an order granted by the Malmesbury Magistrates' Court on 27 May 2025 under case no 595/2023. The magistrate made a written settlement agreement an order of court, and further granted orders directed at the fourth and fifth respondents, including:

- 1.1. the sale of Erf 1139, Abbotsdale by the fourth respondent (through its developer) to the fifth respondent;
- 1.2. the purchase of Erf 1139 by the fifth respondent in terms of s 4(1) of ESTA for the benefit of the first to third respondents; and
- 1.3. an obligation on the fourth respondent to ensure that Erf 1139 is made available for occupation by the first to third respondents on or before 30 August 2025.

[2] The order is, in substance, an eviction order under ESTA, because the settlement agreement regulates how the first to third respondents should vacate the applicants' farm and provides further for their eviction by the Sheriff should they not vacate.

[3] The fourth respondent (Swartland Municipality) and the fifth respondent (the Department of Agriculture, Land Reform and Rural Development) were cited as parties in the proceedings. The settlement agreement identifies the first and second applicants and the first to fifth respondents to be affected by the terms of the settlement agreement.

[4] The signature page of the settlement agreement contained in the record reflects execution on behalf of the applicants and by the first to third second respondents. The agreement nevertheless provides for execution in counterparts and states that it will not be effective until each party has executed at least one counterpart. The record before this Court contains nothing to suggest that the fourth and fifth respondents dispute that they are bound by the magistrate's court order granted against them, nor anything suggesting that the Magistrate granted the order without full knowledge and appreciation of the rights and obligations of all parties.

[5] I have had regard to the record, including the supplementary affidavit filed in February 2025 describing the process that preceded the settlement agreement, including postponements and repeated engagement aimed at securing alternative accommodation, and the delays encountered in that process. The settlement agreement itself records meaningful engagement involving the first to

fifth respondents and records that the first to third respondents received legal advice and concluded the settlement freely and voluntarily.

[6] Having considered the record as a whole, I am satisfied that the Magistrate's Court order should be confirmed on automatic review.

[7] It is, however, notable that aspects of the Magistrate's Court order are unclear or not fully particularised as paragraph 2 requires the sale of Erf 1139, Abbotsdale by the fourth respondent to the fifth respondent, but without detail on how the sale is structured, when it will be concluded, or the milestones for implementation; and paragraph 4 requires the fourth respondent to make the erf available for occupation by 30 August 2025.

[8] The magistrate's court order was granted in May 2025. The automatic review is only finalised during December 2025. It is therefore conceivable that the dates contemplated in the settlement agreement and the magistrate's court order are no longer viable. The settlement agreement also expressly makes its operation subject to confirmation on automatic review in terms of s 19(3) of ESTA.

[9] The magistrate's court order (paragraph 4) plainly contemplated a lead time for the fourth respondent to make Erf 1139 available for occupation. In order to preserve that lead time in a practical manner, and without disturbing the remainder of the magistrate's court order, it is just to adjust that date.

I therefore issue the following order:

1. The Malmesbury Magistrates' Court order granted on 27 May 2025 (case no 595/2023) is confirmed, subject thereto that paragraph 4 of the Magistrate's Court order is substituted with the following:

“4. That the Fourth Respondent ensures that Erf 1139 is made available for occupation by the First to Third Respondents on or before 30 March 2026.”

2. In all other respects, the magistrate’s court order (including the settlement agreement made an order of court) remains unchanged.



A. MONTZINGER

Acting Judge of the Land Court