

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: A 295/2013

In the matter between:

**KAMBAZEMBI GUEST FARM CC t/a WATERBERG  
WILDERNESS**

**APPLICANT**

And

**THE MINISTER OF LANDS AND RESETTLEMENT**

**1<sup>ST</sup> RESPONDENT**

**THE MINISTER OF AGRICULTURE, WATER AND  
FORESTRY**

**2<sup>ND</sup> RESPONDENT**

**THE MINISTER OF FINANCE**

**3<sup>RD</sup> RESPONDENT**

**THE CHAIRPERSON OF THE LAND REFORM  
ADVISORY COMMISSION**

**4<sup>TH</sup> RESPONDENT**

**THE COMMISSIONER FOR INLAND REVENUE**

**5<sup>TH</sup> RESPONDENT**

**THE ATTORNEY-GENERAL OF NAMIBIA**

**6<sup>TH</sup> RESPONDENT**

**Neutral citation:** *Kambazembi Guest Farm CC v The Minister of Lands and Resettlement (A 295-2013) [2015] NAHCMD 184 (05 August 2015)*

**Coram:** UNENGU AJ

**Heard:** 05 August 2015

**Delivered:** 05 August 2015 (Ex tempore)

**Judg. made available:** 06 August 2015

---

**ORDER**

---

- (i) Leave to appeal against the whole judgment of 5 June 2015 is granted.
- (ii) The order of costs of the application for leave to appeal shall be costs in the appeal.

---

**JUDGMENT**

---

UNENGU AJ:

[1] The applicant in the matter by notice of motion filed on 1 October 2014 applied for and sought certain orders to be granted by the court against the Minister of Lands and Resettlement.

[2] The application was heard and argued before me on 8 April 2015. I reserved the ruling after listening to submissions from counsel and delivered the ruling only on 05 June 2015. The judgment or ruling was that:

- (i) That the point *in limine* raised by the respondents is upheld.
- (ii) That the application is struck from the roll with costs.

[3] I was of the view that the proceedings before me were of interlocutory nature and as such Rule 32(9) and 32(10) which are peremptory should have been complied with – which the parties did not comply with.

[4] Aggrieved by the ruling delivered on 5 June 2015 against it, the applicant has come back to court applying for leave to appeal the ruling of the court as a whole. The ruling is being attacked on various grounds which I shall not repeat in my *ex tempore* judgment.

[5] Both counsel prepared some written heads of argument on which they expanded during their oral submissions. I have considered the submissions presented and the authorities I have been referred to. It is common cause that the test in these types of applications is whether the applicant has reasonable prospects of success on appeal. Put it differently, whether another court (the Supreme Court) will come to a different conclusion on the conclusions of law involved. There is such a reasonable prospects of success on appeal that the court of appeal may take a different view from that I have arrived at. That being the case, I have decided to grant the application for leave to appeal against my ruling of 5 June 2015.

[6] Accordingly, the following order is made:

- (i) Leave to appeal against the whole judgment of 5 June 2015 is granted.
- (ii) The order of costs of the application for leave to appeal shall be costs in the appeal.

-----  
E P UNENGU AJ  
Judge

APPEARANCES

APPLICANT :

R Töttemeyer SC  
Instructed by Lorentz Angula Inc., Windhoek

RESPONDENTS:

G Narib (with him Mr Nekwaya)  
of Government Attorney, Windhoek