

GENERAL INFORMATION ABOUT THE CASE	
Case URL	http://www.saflii.org/za/cases/ZAECMHC/2019/11.pdf https://lrc.org.za/wp-content/uploads/pdf/Judgment.pdf
Name of case:	<i>Mthizana-Base and Others v Maxhwele and Others</i>
Court name:	High Court of South Africa - Eastern Cape Local Division, Mthatha
Type of court:	<input type="checkbox"/> Constitutional Court <input type="checkbox"/> Supreme Court of Appeal <input checked="" type="checkbox"/> High Court <input type="checkbox"/> Other
Issue:	Rights of occupants vs traditional leader
Justice(s)/Judge(s)	J Plasket
Reference No:	[2019] ZAECMHC 11
Filing No:	3351/18
DESCRIPTION	
Facts:	<p>The first applicant stated in her founding affidavit that in the early 1990s, people began to occupy land in what is now known as Bhongweni Phase 1 of the Zimbane administrative area near Mthatha. They did so with the blessing of the traditional leader, Chief Baleni, who is now deceased. The first applicant bought her first plot in 1992 and built a home on it. She stated that while she had no written record of the purchase of the plot, she still lives there. She claimed that she had enjoyed undisturbed use and enjoyment of the plot until recently.</p> <p>The plots in Bhongwani Phase 1 have not been properly sub-divided and so plots have not been registered in the Deeds Office. The area, known as Erf 912, Mthatha, belongs to the King Sabata</p>

	<p>Dalindyebo Local Municipality, the seventh respondent. In proof of this fact, which was denied by the first to fifth respondents, the first applicant attached a copy of the title deed. The first applicant had two plots and one was acquired in 2008, the second applicant acquired a plot in Bhogweni Phase 1 in 1995, and the third applicant acquired a plot in Bhogweni Phase 1 in 2017.</p> <p>The applicants made allegations that the fourth, fifth and sixth applicants were threatened to force them to vacate their home, as the first respondent had claimed that it belonged to the chiefdom.</p> <p>The first respondent is the local headman. The second, third, fourth and fifth respondents are members of a committee formed by the first respondent. The sixth respondent, who has not filed any opposing papers, is described in the founding papers as a ‘project manager performing various construction projects under the first respondent’s authority’ (the respondents)</p> <p>On 31 July 2018, a rule nisi was issued and was extended from time to time. This meant that the respondents were interdicted and restrained from intimidating, threatening and evicting the applicants from their homesteads and/or plots in Bhongweni Phase 1, Zimbane Administrative Area, Mthatha.</p>
<p>DECISION/JUDGMENT</p>	
<p>Decision/Judgment:</p>	<p>The court ordered that the respondents are interdicted and restrained from intimidating, threatening and evicting the first, second, third, fourth, fifth and sixth applicants (the applicants) from their home or plots in Bhongweni Phase 1, Zimbane Administrative Area, Mthatha.</p> <p>They are also interdicted from preventing the applicants having access to their homes or plots.</p>



REFERENCES	
Reference(s) to other court decision:	