

GENERAL INFORMATION ABOUT THE CASE	
Case URL	http://www.saflii.org/za/cases/ZASCA/2020/57.pdf
Name of case:	<i>Mazizini Community v Minister of Rural Development and Land Reform and others</i>
Court name:	The Supreme Court of Appeal
Type of court:	<input type="checkbox"/> Constitutional Court <input checked="" type="checkbox"/> Supreme Court of Appeal <input type="checkbox"/> High Court <input type="checkbox"/> Other
Issue:	Community Access to Land
Justice(s)/Judge(s)	WALLIS, MBHA and DAMBUZA JJA and MOJAPELO and EKSTEEN AJ
Reference No:	[2020] 3 All SA 318 (SCA)
Filing No:	1310/2018
DESCRIPTION	
Facts:	<p>The Appellant in this case was Mazizi Community (AmaZizi) appealing the decision of the Land Claims Court (LCC).</p> <p>During February 2008 the Regional Land Claims Commission (RLCC) referred to the LCC a land claim in which the Appellant claimed restitution of its rights in 27 896 hectares of land comprising 85 farms located in the area between the Great Fish and Keiskamma Rivers in the Eastern Cape Province.</p> <p>The LCC had ruled in favour of the Second Respondent, the Prudhoe community, in a land claim by both parties in respect of land in question. Both communities lodged their claims to the land in December 1998.</p> <p>Essentially, the claimed land covered the area on which AmaZizi had been settled within the ceded territory during the 1830s and 1840s, including the portion of land that used to be Chief Kama's</p>

	<p>territory, and the land formerly granted to AmaGqunukhwebe, including the portion of Chief Kama’s land on which Chief Kama’s people had remained.</p> <p>The court had to consider the question of which community has proven entitlement to restitution. In the LCC, it was noted that both the Mazizi and Prudhoe community endured devastating effects of discrimination and displacement. However, it was accepted that the law is limited in its ability to deal with the injustices of the past. And in order to succeed, each party had to satisfy the prescripts of the law in respect of their claim.</p>
<p>DECISION/JUDGMENT</p>	
<p>Decision/Judgment:</p>	<p>The court held that the meaning of ‘community’ is not rigid. The important factor is an accepted, co-ordinated way of life amongst a group of people that guides their access and utilisation of the land and natural resources within their environment – what the Constitutional Court described as ‘an established orderly settlement pattern, common traditional practices, pooling of resources for farming purposes, economic activity and leadership structure’</p> <p>The court considered whether the question of which community has proven entitlement to restitution. Supreme Court of Appeal (SCA) dismissed the appeal by the appellant (Mazizi community) against the judgment of the Land Claims Court (LCC).</p> <p>The court agreed with the findings by the LCC that the Prudhoe community was a community as envisaged in s 2 of the Restitution Act and was dispossessed of rights in the disputed land as a result of discriminatory laws after 1 June 1913 was correct.</p>

REFERENCES	
Reference(s) to other court decision	Salem Party Club and Others v Salem Community and Others [2017] ZACC 46; 2018 (3) SA 1 (CC) Department of Land Affairs and Others v Tropical Fruits (Pty) Ltd [2007] ZACC 12; 2007(6) SA 199 (CC)