

Court order protects land right

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A MARIENTAL resident has obtained a High Court order to stop the Witbooi Traditional Authority from cancelling a customary land right that the Hardap Communal Land Board registered in his name in December 2012.

In terms of an order granted by Judge Maphios Cheda in the Windhoek High Court on Friday last week, the Witbooi Traditional Authority, one of its senior traditional councillors, Simon Jacobs, and communal farmer George Bank may not unlawfully interfere with Curtis de Klerk's rights to occupy and farm on the land over which he has a registered customary land right.

The land is at Eitsamub in the Gibeon area.

De Klerk informed the court in an affidavit that he applied to the Hardap Communal Land Board for the registration of a customary land right in terms of the Communal Land Reform Act in September 2012, after he had obtained the consent of the Witbooi Traditional Authority and Jacobs.

The Hardap Communal Land Board registered a customary land right in his name in December 2012.

However, while he was putting up a kraal on the piece of land covered by the customary land right in March last year, Bank approached him and told him that he was not supposed to be present on the land as it belongs to Bank's father, De Klerk said.

He was subsequently told by Rooi that the Witbooi Traditional Authority had cancelled his right to use the land for grazing and to build a house, De Klerk said.

Bank has since then prevented him from making use of the land over which he has the registered right, De Klerk claimed.

He argued that the decision to cancel his right was not fair and reasonable and was taken without him having been given an opportunity to be heard first. De Klerk also argued that the traditional authority did not have the legal power to cancel his land right, as that could only be done by the Hardap Communal Land Board based on limited grounds set out in the Communal Land Reform Act.

The respondents sued by De Klerk did not fight his application. De Klerk's lawyer, Ricardo Mukonda from the Legal Assistance Centre, informed Judge Cheda that they have decided to abide by the court's decision.