



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 22 January 2026

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

SAHRA and Others v Dr Mandela and Others (825/24) [2026] ZASCA 06 (22 January 2026)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal with costs from the Gauteng Division of the High Court, Pretoria (the high court), which had rejected an application by the South African Heritage Resources Agency (SAHRA), the Robben Island Museum, and the Department of Sport, Arts and Culture. The high court had refused to grant broad interdictory relief aimed at stopping the sale, movement, or export of various assets belonging to Dr Makaziwe Mandela and Mr Christo Brand, and the SCA upheld that decision.

The dispute arose after SAHRA approached the high court in March 2022 seeking to prevent the auction of a collection of items associated with the late former President Nelson Mandela. The items included several personal objects owned by Dr Mandela, and two objects in the possession of Mr Brand: a broken key he found decades earlier in a desk drawer while serving as a warder on Robben Island, and a copy of the 1996 Constitution signed by President Mandela before the final version was formally executed. SAHRA contended that these assets formed part of South Africa's national estate and constituted heritage objects under the National Heritage Resources Act 25 of 1999 (the Act).

The issue on appeal was whether the items owned by Dr Mandela and Mr Brand fell within the categories of 'heritage objects' as contemplated in the Act and the 2002 and 2019 declarations issued under s 32 of the Act. SAHRA argued that anything relating to Nelson Mandela qualified as a deemed heritage object, and that the Act envisages a 'two-stage permitting process' requiring owners to seek permission from SAHRA before exporting any item that fits within the declared categories.

The SCA rejected SAHRA's interpretation and held that neither the Act nor the declarations provided for such a two-stage mechanism. The Court emphasised that laws affecting criminal liability and property rights must be clear, constitutionally compliant, and not absurdly broad. It found the categories relied on by SAHRA to be far too wide and uncertain if interpreted as SAHRA suggested. Importantly, the Court held that SAHRA had provided no admissible evidence establishing that each item met the statutory requirements of cultural significance or special value. By contrast, Dr Mandela and Mr Brand had explained in detail how they acquired their respective assets and why the items did not have the necessary characteristics to qualify as heritage objects.

The SCA further held that the auction catalogue and related materials relied on by SAHRA amounted to inadmissible hearsay and that no legitimate inference could be drawn that Dr Mandela or Mr Brand regarded their items as possessing heritage status. The Court reiterated that the owners' constitutional property rights cannot be limited on the basis of speculation or unsupported assertions.

In the result, the SCA concluded that SAHRA had failed to establish that any of the listed items were heritage objects as defined in the Act. The appeal was accordingly dismissed with costs, including the costs of two counsel where employed.

~~~~ends~~~~