



**THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA**

**MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

**FROM** The Registrar, Supreme Court of Appeal  
**DATE** 1 June 2011  
**STATUS** Immediate

***Please note that the media summary is for the benefit of the media and does not form part of the judgment.***

***SA Soutwerke v Saamwerk Soutwerke  
(491/10) [2011] ZASCA 109 (1 June 2011)***

**Media Statement**

In an appeal concerning a dispute between two companies who mine salt in the Northern Cape, the Supreme Court of Appeal (SCA) today delivered judgment dismissing the appeal by SA Soutwerke (Pty) Ltd against the judgment of Lacock J in the Northern Cape High Court. The high court had dismissed its counter-application in which it sought to review and set aside the Minister's approval of Saamerk's application for a mining permit and declared Saamwerk Soutwerke (Pty) Ltd the holder of a mining permit over the disputed property.

The question on appeal was whether the high court was entitled to refuse to review and set aside the Minister's approval of Saamwerk's application without considering whether Saamwerk had consulted with Soutwerke as an 'interested and affected party' as contemplated in the Mineral and Petroleum Resources Development Act 28 of 2002. The answer to this question would depend, the SCA held, upon the legal basis relied on by SA Soutwerk for its occupancy of the property. As SA Soutwerke's occupation of the property was premised on the validity of a permit, which the high court had correctly held to be invalid

as it was found to be a forgery, the question arose as to whether SA Soutwerke had a right to be consulted even though the permit was invalid.

The SCA, after careful considering of the requirements set out in the Act, held that a person or entity that relies on an illegally issued permit to occupy land has no right to be consulted by an applicant for a mining right as contemplated in the Act. SA Soutwerke clearly was not an 'interested and affected party' as required by the Act and thus had no right to be consulted on this basis.

The SCA expressed its dismay at the fact that even though a complaint had been lodged with the South African Police Services by Saamwerk to investigate the forgery of the mining permit, nothing had occurred for two years. This was despite a finding by the high court, which was approved on appeal, that SA Soutwerke must have been aware of the the forgery. The court also found that there appeared to have been ineptitude, if not venality, on the part of the officials of the Department of Minerals and Energy and requested the registrar of this court to deliver a copy of the this judgments, as well as the judgments of the high court, to the National Commissioner of the South African Police Services, the National Director of Public Prosecutions and the Minister who is responsible for Department of Minerals and Energy.

The SCA consequently dismissed the appeal with costs.

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