



IN THE HIGH COURT OF ESWATINI

JUDGMENT

In the matter between:Case No. 1653/2012

HAPINESS FAKAZI TSELA (NEE ZONDO) Appellant

And

SIBONGILE VERONICAH MABUZA (NEE ZONDO) (N.O)1st Respondent

SAMARIA NGEZI ZONDO2nd Respondent

JABHILE ZONDO3rd Respondent

MASTER OF THE HIGH COURT (N.O)4th Respondent

Neutral citation: Hapiness Fakazi Tsela (Nee Zondo) v *Sibongile Veronicah Mabuza and Others* [1653/2012] [2020] SZHC 197 (29th September, 2020)

Coram:M. Dlamini J sitting with assessors

Heard:5th March, 2020

Delivered:29th September, 2020

Swazi law and custom: Claim for insulamnyembeti - dowry in terms of our customary law strictly refers to cattle received by the bride's family from that of the groom - marriage is defined as a union not between the two love birds but the groom's and the bride's families [45]

Insulamnyembeti - just like lugege, there is never dowry without it - in fact, in terms of Swazi law and custom, there rather be no emashayantfonga and lugege than insulamnyembeti - it comes in a form of a cow and never a bull - in fact, it must be one which is at its infancy, i.e. one without progeny - [47] - the history behind insulamnyembeti can be traced back from the Garden of Eden [48] – the birth of the child is a cause for great celebration in every household in as much as it comes with great pain experienced by the mother. During the dowry ceremony, this pain suffered is never forgotten [49] - insulamnyembeti or inkhomo yelubibi (cow for the blood – ‘blood’ is reference not to sin but the blood that is lost during labour) is solely for one person and that is the biological mother of the bride [50] - when the bride has no biological mother? – this cow is inherited by her biological mother's heirs - so if the bride has brothers and sisters, the youngest brother would inherit it - if she does not have any then the insulamnyembeti is inherited by the bride herself and no other [51]

Summary: By application proceedings, the applicant seeks for a restraint order against the respondent and the veterinary officer of Ngwebane Dip Tank from requisitioning and issuing stock removal permits for cattle registered under the late **Willie Zondo** pending a determination on whether she is entitled to *insulamnyembeti* (her mother's cow) and its progeny. The respondents are opposed to the prayers on the ground that such cow belonged to the late **Willie Zondo**.

Procedure

[1]On the 12th March 2013, the parties' Counsel appeared before me. They both defined the issues as follows:

“(i) Is applicant part of the Willie Zondo Family?”

“(ii) Does applicant have a right to insulamnyembeti.”

[2]On the 2nd November, 2017, the parties applied that the matter be referred to the office of the Registrar for allocation. The file was allocated to me and was referred to me by my brother **Mlangeni J.** on 13th September 2016. A roll call was scheduled on 4th October 2016 where the matter was allocated hearing dates viz., 26th and 27th April, 2017. On 27th April, 2017. Respondents' Counsel failed to appear and an interim order was entered in favour of applicant, returnable on 29th May 2017. On the return date, Counsel for applicant applied that the rule be confirmed. It was opposed by the respondents. The matter was referred to trial and owing to its nature, the parties consented that I sit with assessors.

[3]The matter faced a further challenge. The judgment was inordinately delayed because Counsel for plaintiff was indisposed due to some procedural reasons which the Attorney General expected her office to comply with. When this transpired she was yet to file submissions on this matter. These were received on 5th March, 2020.

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The Parties

[4]The applicant described herself as an adult widow of Mahlangatsha, district of Manzini. She is the subject of Chief **Mcakeni Tsela** and the Chief's headman, **Khetse Manyatsi**. The applicant also described herself as:

[7]“I am the fifth (5th) born child of the late Willie Zondo, who was married by Swazi Law and Custom to Esther Ndlangamandla, and died during 2004. My father predeceased my mother in the same year.

[8]I was married by Swazi law and custom to the late Jobe Mantshweza Tsela, who died during March 2005.”¹

5]The 1st respondent is an executrix dative of the estate late **Willie Zondo**. The 2nd and 3rd respondents are, like 1st respondent, the biological daughters of the deceased **Willie Zondo** and are by virtue of the biological relationship, beneficiaries in the estate of **Willie Zondo**.

¹ Page 7 of paragraph 7 & 8 of the book of pleadings

[6]The 4th respondent is so cited by reason that it is the custodian of deceased estate in the country.

Parties' Contentions

The Applicant

[7]In her pleadings, the applicant deposed that in 1996, having married to the late **Jobe Mantshweza Tsela** by Swazi law and custom, six herd of cattle were paid and delivered to her parental homestead. The herd of cattle were received by **Willie Zondo** who was according to her, her biological father. Inclusive in the six herd of cattle was *insulamnyembeti*, the cow under issue.

[8]She later performed the traditional dance following payment of the bride prize. In 2005, her husband, **Tsela**, fell ill. She went to her parental home and requested from 2nd respondent to assist her secure money in order to pay for her ailing husband's medication. She requested to be given *insulamnyembeti* to sell it. 2nd respondent declined her request.

[9]She approached the 3rd respondent to accompany her to their aunt, **Tryphinah Gina** to appeal for the grant of the *insulamnyembeti*. 2nd respondent agreed to accompany her. **Tryphinah Gina** agreed that the *insulamnyembeti* be released to her. While she was preparing to take the *insulamnyembeti*, **Tsela** died.

[10]After her moaning period, she resumed the issue of the *insulamnyembeti*, as she was still under financial distress. She approached the 3rd respondent who

advised her to go to the Chief's Kraal. She obliged. The KoNtjingila Royal Kraal summoned 1st, 2nd and 3rd respondents. The matter was deliberated upon and a ruling in her favour was issued. The respondents were ordered to deliver to applicant not just the insulamnyembeti but also its progeny.

[11]During the deliberation at the Royal Kraal, the respondents refuted that a bride prize was paid for her. She had to call upon *umyeni* and *gozolo* on her behalf. The respondents called upon **Meshack Ndlangamandla** who was their uncle. However, **Meshack** testified in support of her version. The respondents have failed to comply with the Royal Kraal's decision. The 4th respondent declined to consider the ruling of the Royal Kraal in the distribution of the estate of her late father.

The Respondents

[12]In their answering affidavit, respondents raised points *in limine*. I shall not say much about them as they were not pursued during the hearing. The parties decided to define the issues and have the matter referred to oral evidence. The respondents denied that the applicant was the biological daughter of **Willie Zondo**. They pointed out that applicant's mother was **Elizabeth Khumalo**, who was a sister to their mother. Applicant arrived in their parental home in the company of her mother, **Khumalo**. At that time, applicant was six months old and critically ill. Applicant was left to the care of their parents while her mother returned to South Africa to reside with applicant's father.

[13] Respondents' parents took applicant to various health institutions. She was eventually treated by a traditional healer, named Lufukazi. Applicant was then given the traditional healer's name. Respondents' parents maintained applicant until she dropped out of school at Form 2. Applicant was married to **Tsela** who paid four herd of cattle as dowry. Two of the cattle went towards catering for the dowry expenses and purchase of gifts (*umhlambiso*) for applicant's in-laws. The remaining two herd of cattle died during the preparation of applicant's traditional dance ceremony.

[14] Respondents attested that applicant abandoned her matter with the KoNtjingila Royal Kraal on the demand for *insulamnyembeti* before a ruling could be made. The 4th respondent, having ascertained that applicant was not a **Zondo** but a **Khumalo** decided to exclude applicant from the list of beneficiaries under the estate late **Willy Zondo**.

Oral Evidence

[15] **Mrs. Tsela**

In her oral evidence given under oath, the applicant confirmed that she was the fifth born child of the deceased. She produced a birth certificate to that effect. In 2005 she was married to **Manjweza Tsela** in terms of Swazi law and custom. She handed her marriage certificate in support of her evidence. Six herd of cattle as dowry were paid to the deceased. The six herd of cattle were accompanied by two cattle, referred to as *lugege* and *insulamnyembeti*. Following the dowry ceremony, a traditional dance ceremony was undertaken.

[16]Her husband **Manjweza Tsela** fell ill during the course of their marriage. She did not have money to carter for her husband's ailing health. She decided to go home and seek for help. She found 2nd respondent who is her elder sister. She narrated her predicament. 2nd respondent was angered by her request. She pleaded with her to calm down. She suggested that they approach their aunt for advice.

[17]During the deliberation of the matter with their aunt, 1st and 3rd respondents were present. They objected to her request, stating categorically clear that the *insulamnyembeti* belonged to their mother. They pointed out that they would rather die than release the cow to her. This was despite their aunt's approval of her request.

[18]She went to KoNtjingila Royal Kraal at kaGwegwe to report her ordeal. The respondents were invited and the matter was deliberated upon. The decision of kaGwegwe was in her favour. She submitted a copy of the decision and testified that it was written by the Secretary of the inner-council who happened to be at that time, Mr. Maphalala who is now the Chief Justice. Upon pronouncement of the decision by the KoNtjingila Royal Kraal, she turned to the respondents. The respondents advised her that they would give her the cattle (now with its progeny) but needed to arrange for them first. It was her evidence that she waited upon the respondents to comply with the Royal Kraal's decision for years but in vain. One day, she received a call inviting her to the offices of the Master. She had to bring with her identification documents. She obliged.

[19]At the Master's offices, she was advised that 1st respondent had requested that she be arrested for interfering with the estate of the late **Willie Zondo**. She explained about the decision of KoNtjingila Royal Kraal. The officer advised her to go to Hlatikhulu Police Station and depose to an affidavit and file the same with the Master. She complied and the officer undertook to summon her later. The Master did call her. She went to the Master's office. She was told that she was not entitled to the ten herd of cattle from the estate late **Willie Zondo**.

[20]She has approached this Court to endorse the KoNtjingila Royal Kraal's decision and order the Master to distribute the ten herd of cattle to her. I shall refer to her cross-examination later. The applicant then closed her case. The respondents led two witnesses.

Mrs. Mabuza

[21]RW1 was **Sibongile Veronica Nomcebo Zondo-Mabuza (Mrs. Mabuza)**. She gave a detailed account of how plaintiff came to live with her parental family. At the age of six months, plaintiff was brought to her homestead by her mother's younger sister (aunt). Plaintiff was the sixth born child of her aunt. All first five children had died at infancy stage. When plaintiff came with her aunt, she was critically ill. Her aunt delivered plaintiff to her parents. She stated clear that she had come to leave plaintiff with them while she went her way. Should plaintiff die later, they (**Mrs. Mabuza's** parents) should consider her as their child and bury her. She then left and never returned.

[22]Mrs. **Mabuza's** parents were **Willy Zondo** and **Esther Khumalo**. They took plaintiff to various medical health practitioners including traditional healers. Plaintiff persistent ailment was finally overcome by a traditional doctor by the name of Lufukazi. Plaintiff then assumed the name of the traditional healer, Lufukazi.

[23]Mrs. **Mabuza** testified that Lufakazi's maiden's name was Kunene. This was borne out by her standard five certificate and other school registration records. The KoNtjingila community knew her as Kunene. After the death of their father, they all proceeded to the Master's Officer. The officer enquired on their identification. Applicant identified herself as **Kunene**. However, in 2008 – 2009 when there was a new officer in the Master's office, they discovered that the applicant's last name, **Kunene** had been cancelled and **Zondo** written next to it. Further, when they were served with summons to appear at KaGwegwe Royal Kraal, the complainant was reflected as **Kunene** and not **Zondo**. She presented to the Court the minutes from the Masters office reflecting the plaintiff as **Kunene** and also the cancellation together with amendment to **Zondo**.

[24]It was Mrs. **Mabuza's** further evidence that her father narrated to her that a certain old man came home to request applicant's hand in marriage. He said he was bringing with him four herd of cattle. He agreed. **Mrs. Mabuza** protested saying it was unfair for him to allow **Tsela** to marry applicant on the basis of four herd of cattle when he turned away the **Mabuza's** who were bringing thirteen for her. Her father responded by stating that he had agreed in respect of applicant because applicant had three children from a

man who later rejected her. The **Tsela** man would at least provide applicant with a homestead. It is then that applicant was eventually married by **Tsela**.

[25]The list from the **Tselas** consisted of fifty persons for bridal gift (*umhlambiso*). There was never any **lugege** slaughtered on behalf of applicant. She and her husband had to finance the purchasing of *umhlambiso*. One cow died while they were preparing for applicant's traditional dance. One cow was sold to cater for the rest of *umhlambiso*. Another cow was slaughtered when the bridal party was leaving for the **Tselas**. Only one was then left in the kraal and she never received a report on it.

[26]After the demise of her parents, she received a report from 2nd respondent that applicant came home and demanded her dowry. Applicant then reported the matter to kaGwegwe Royal Kraal where it was held that as the matter was pending before the Master, it could not be deliberated before two different forums. She disputed the decision of the Royal Kraal as evident in exhibit C. She pointed out that the author of exhibit C was her enemy who was hell bent to take away cattle belonging to **Zondo**. His son was the Secretary of the Inner Council. This person had teamed up with applicant. Applicant whenever at her parental home area would spend the night at the author's residence.

[27]**Mrs. Mabuza** pointed out that her aunt never went to KaGwegwe Royal Kraal during deliberation of the matter. She, however, gave them her son to accompany them to KaGwegwe Royal Kraal. She testified that not only

did she purchase the bulk of *umhlambiso*, she also financed applicant's first born child's education.

[28]When applicant's husband died, she went to the **Tsela** family and discovered that applicant was not present and her whereabouts were unknown by her in-laws. She found that they were preparing to bury **Mr. Tsela** in the absence of applicant. She pleaded with them to await the arrival of applicant. She arranged for the morgue to take his body and she paid for the expenses. As the only coffin available was one assembled by neighbours following that there was no money to buy a decent one, she sold a cow to carter for the coffin. The **Tselas** accused applicant of strangling her husband and leaving him to die behind. She also testified that there were presently no cattle in the estate of late **Willy Zondo** as all the cattle were distributed without any objection.

Mrs. Jabulile Zondo

[29]The next witness on behalf of respondents was **Jabulile Zondo**. She testified that applicant was not her blood relative. Applicant was her aunt's daughter. She was married to **Mr. Tsela** who paid four herd of cattle. Her father financed applicant's wedding. One cow was slaughtered while the other was used to hire a vehicle to convey applicant's in-laws gifts. The remaining two herd of cattle died.

[30]She knew nothing about applicant's request for financial assistance towards her sickly husband and the support by her aunt of applicant. Although they

went to the Royal Kraal at KaGwegwe, the indvuna ruled that they could not come to a definite ruling as **Willy Zondo's** cattle were at the Master's office. She pointed out that applicant was a **Kunene** from the inception and during the time she grew up at KaNtjingila.

Common cause

[31]It is common cause that applicant grew up in the same homestead as respondents. It is common cause that **Willy Zondo** together with his wife took care of applicant. It is not in issue that applicant was married to **Mr. Tsela** who died in 2005. **Willy Zondo** and his wife pre-deceased **Tsela**. **Tsela** paid some herd of cattle for applicant which were received by **Willy Zondo**. It is not disputed that a traditional wedding where gifts were distributed took place in respect of applicant and **Mr. Tsela**.

Question of fact and law to be determined

[32]A number of factual questions need to be ascertained in order to determine the matter serving before us. First and foremost who is applicant? Is she a **Zondo** or a **Kunene**? What were the cattle for that were paid by **Tsela**? Were they for her hand in marriage or dowry? If for dowry, was *insulamnyembeti* announced? The last question which calls for a determination based on Swazi law and custom is whether applicant is entitled to the *insulamnyembeti*.

Who is applicant?

[33]The applicant identified herself as the fifth born child of **Willy Zondo** and **Esther Ndlangamandla**. In support of her evidence, she produced a certificate bearing similar information. The 2nd and 3rd respondents profusely disputed that applicant was the biological daughter of **Willy Zondo** and **Esther Ndlangamandla**. They first contended that **Esther** was not a **Ndlangamandla** but a **Khumalo**. This evidence however did not carry any weight as it is accepted that the surname **Ndlangamandla** could be used interchangeably with **Khumalo**. The respondents pointed out that applicant arrived at their parental home at the age of six months and on critical health condition. Following that her mother had experienced deaths of all her previous five children, she abandoned applicant with their parents, stating that if applicant died, they should bury her without any further ado. The respondents' parents took applicant to various health institutions and eventually applicant received help from a traditional healer, one Lufukazi. Applicant then attained the name of the traditional healer.

[34]Turning to the birth certificate handed by applicant as evidence of her identity, the respondents noted a number of inconsistencies. For example, the certificate reflects that **Willy Zondo** was from Ngwenya, whereas he was of KoNtjingila. The respondents further testified that the community of KoNtjingila knew her as **Kunene** and not **Zondo**. During her school years, she had registered as a **Kunene**.

[35]We consider the above evidence and conclude that the applicant is not a **Zondo** but a **Tsela** for the simple reason that is outlined hereon. It is common cause that **Willy Zondo's** wife predeceased **Willy Zondo**. Upon the death of **Willy**

Zondo, his children assembled at the Master's office at Siteki. On their first appearances each person was recorded. Applicant who was present identified herself as a **Kunene**. This is evident from Exhibit 1, the Master's minutes. The Master entered:

“Remarks

*The Assistant Master asked Happiness what her real surname was, she answered that her real surname was **Kunene** even though she does not know her biological father, she further advises that she grew up at the **Zondo** homestead after being dumped there by her mother when she was six (6) months old, her mother was a sister to the deceased's wife. The deceased and his wife had no problem with her and raised her as their own child, they even took her to school, for the reason that Happiness's biological father was unknown the deceased when he applied for her birth certificate, he registered himself as the father.”²*

[36]This transpired on 28th September 2012. However, later the entry reflecting **Kunene** was altered to **Zondo**. This was apparently done in the absence of the respondents herein. What demonstrates on a well tilted scale of preponderances is applicant's failure to assert a claim over the estate late of **Willy Zondo**. Applicant has no qualms that she does not appear in the final liquidation and distribution accounts of the late estate **Willy Zondo**. She has never laid a claim over the entire estate. From the onset, applicant is claiming *insulamnyembeti* only. If she was a **Zondo**, she would have from

² “Ex 1” *The remarks on the estate late of Willie Zondo – ES 228/2004*

the onset challenged the liquidation and distribution accounts and asserted her right to benefit therein. From applicant's own action therefore, we find that applicant is not a **Zondo** but a **Kunene**.

[37]I must clarify further why we reject applicant's evidence in light of the birth certificate. It is undeniable that the birth certificate (Exhibit B) is attended by a number of inconsistencies as correctly observed by respondents' attorneys. This is understandably so because even 3rd respondent's birth certificate carried information which was different from Exhibit B. The reason for the inconsistencies was explained by 1st respondent under cross examination when she pointed out that her father was old by then, having been born in 1910 (i.e. date on 1st respondent birth certificate). He called all the children to come home in order for him to get birth certificate for them. Everyone responded to the call including applicant. At any rate, **Willy Zondo** having received a warning from applicant's mother to the effect that when the child (applicant) died he should do whatever without reference to her, meant that the child was given to him. It was expected of him therefore to secure a birth certificate when they were so introduced in this country.

What were the cattle for? For asking her hand in marriage or dowry?

[38] 1st respondent testified:

“Tsela never paid lugege and insulamnyembeti. My father called me with my husband. He said, “Fukazi came with a man. He appeared older than me, my child. The man said he wants Fukazi to make fire for him. He came with four herd of cattle to ask for her hand in marriage.”

[39]Applicant had testified:

*“After marrying **Tsela**, cattle was paid including *insulamnyembeti* and *lugege*. There were eight herd of cattle, six were dowry while one was *insulamnyembeti* and one *lugege*.”*

[40] 3rd respondent testified in regard to the cattle:

*“Among the four cattle, **Tsela** when he shouted said that he was paying *lobola* and there was *lugege* and *insulamnyembeti*. I did not see when it was pointed out except for the shouting.”*

[41]The evidence of 3rd respondent supports the version of applicant that there was dowry paid and among the cattle brought by **Tsela**, there was *lugege* and *insulamnyembeti*. For purposes of the issue at hand, it is immaterial how many herd of cattle were paid as dowry by **Tsela**. What is relevant is that *insulamnyembeti* was among the head of cattle. By evidence of 3rd respondent, dowry was paid and *insulamnyembeti* formed part of it. The herd of cattle paid by **Tsela** was therefore for dowry.

Is applicant entitled to *insulamnyembeti*?

Dowry

[42] “*Siyalobola gogo. Sita nemashayantfonga (emabheka) lalishumi nesihlanu,³nesidvudvu sabomake (lugege) nensulamnyembeti*”⁴

[43] These are nothing but melodic and siphonic words echoed by a male reverberating at dusk at the periphery boundaries of the bride’s homestead. They are repeated over and over, followed by ululation and cheering from the bride’s family, neighbours and friends who have gathered around in anticipation. They are loud enough to attract even the attention of a hardcore-to-hear old man snoring away following a hard work’s day in the nearby homestead. More significantly, they are never haphazard in their order. First, the dowry (*emashayantfonga*) then *lugege* and lastly, *insulamnyembeti*. Although the dowry and its number are announced first, there is never dowry without *lugege* and *insulamnyembeti* during this occasion. Paradoxically, by no means is the converse true, even though the number⁵ of dowry can be negotiated on the following day.

[44] *Gozolo*⁶ has discharged his very first amongst the series of assignments daunting him in this ceremony. A maiden emerges from the bride’s family and approaches the dowry party⁷ which has been cool, calm and collected all along. She picks from the head of her equal a load (*umtfwalo*). She leads the way and dowry party follows her into a hut, usually a roundavel. The dowry party occupies the right hand side of the hut when one faces the

³ 15 as lobolo cattle is usually for commoners. If the bride is from royalty, it is usually 30 provided she is the first born to the Prince and thereafter 25. The number could be much higher depending on the position of the Prince in the family. The more senior Prince, the higher the number of lobolo in respect of his girls. Similarly, seniority in the order of the girls as a nuclear and extended family influence the number of lobolo as well.

⁴ For commoners, the number is usually 1 *lugege* and 1 *insulamnyembeti*. For non-commoners, the number could be higher for each category of *lugege* and *insulamnyembeti*.

⁵ *Emphasis must be made that only the number and not the presence of dowry only can be negotiated.*

⁶ *The right hand man of umyeni.*

⁷ *It inclusive of the bride, bridegroom, family members of the groom, his relatives, neighbours, and friends. It certainly excludes the groom’s biological and extended parents.*

main door or entrance. A grass mate is given to *umyeni* who is easily identifiable by a blanket cascading from his shoulders. Oh; Let me not be carried away by the dowry ceremony. The question for determination is, what is dowry?

[45]The answer to the above poser lies under what Swazi law and custom perceives dowry. Dowry in terms of our customary law strictly refers to cattle received by the bride's family from that of the groom. Marriage is defined as a union not between the two love birds but the groom's and the bride's families.

[46]Dowry is very distinct in its composition. There are two head of cattle which form part of the dowry. They have their own unique names and importance. These are *lugege* or *sidvudvu sabogogo* and *insulamnyembeti*. As the name (*lugege* or *sidvudvusabogogo*) suggests, this bull and never a cow, is meant to be slaughtered and consumed during the dowry ceremony just like *inhlabisabayeni* bull which comes from the bride's family.

[47]Then there is *insulamnyembeti* (that which wipes groaning tears). I must emphasis in respect of this cow, just like *lugege*, there is never dowry without it." In fact, in terms of Swazi law and custom, there rather be no *emashyantfonga* and *lugege* than *insulamnyembeti*. It comes in a form of a cow and never a bull. In fact, it must be one which is at its infancy, i.e. one without progeny. It is for this reason that during the *teka* ceremony this cow is pointed out to the bride together with her party (for strictly under Swazi law and custom, *umfati utekwa bakubo*. It is the bridal party that must conduct

the *teka* ceremony in as much as the red ochre is smeared upon the bride by an elderly woman from the grooms family.

[48]The history behind *insulamnyembeti* can be traced back from the Garden of Eden. The judgment of that day from the One who sits enthroned forever still confronts the Eves of this world. It is:

“Because thou have disobeyed my words, thou shall suffer pain during thine giving birth.”⁸

[49]The birth of the child is a cause for great celebration in every household in as much as it comes with great pain experienced by the mother. During the dowry ceremony, this pain suffered is never forgotten.

[50]It is for the above reason therefore that *insulamnyembeti* or *inkhomo yelubibi* (cow for the blood – ‘blood’ is reference not to sin but the blood that is lost during labour) is solely for one person and that is the biological mother of the bride. Mother must strictly be interpreted to refer to the one who entered the labour ward and came out carrying the bride. In other words, just to demonstrate who the mother is, where a woman gives birth to a girl child and marries away from that child’s family, when dowry is paid, the *insulamnyembeti* is taken to her. If her whereabouts are unknown, the first port of call is to search for her for purposes of handing over the cow. It is never given to the woman who is later married by the bride’s father even though it can be proved that the biological mother never had any hand in

⁸ Genesis 3 v 16

the upbringing of the bride. This is neither a cow for maintenance (*sondlo*) nor can it be substituted for such or anything for that matter. It is a cow for appreciation that she who bore her, bore pain as well.

[51]Turning to the case at hand, the question is, what happens when the bride has no biological mother? This cow is inherited by her biological mother's heirs. So if the bride has brothers and sisters, the youngest brother would inherit it. If she does not have any as is the case at hand following the evidence that she is the only surviving child of her mother who later disappeared to South Africa, vouching never to return even upon the death of applicant, then the *insulamnyembeti* is inherited by the bride herself and no other." The assessors have enlightened similarly.

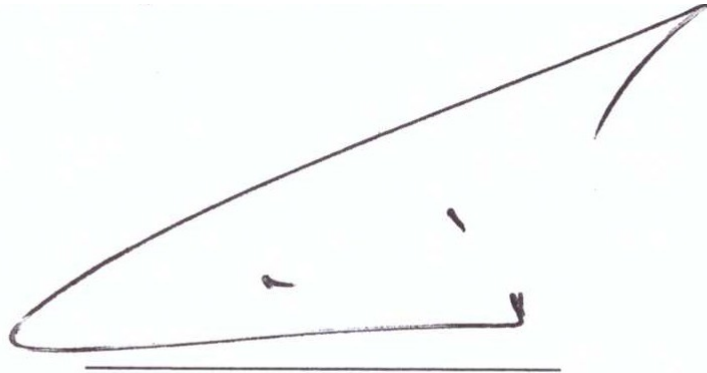
Orders

[52]In the result, I must find for the applicant. The following orders are entered:

52.1The *rule nisi* issued on 12th March 2013 is hereby confirmed in the following:

52.21st respondent is ordered to deliver to applicant *insulamnyembeti* and 2 cows as progeny.

52.31st respondent is ordered to pay costs of suit from the estate of late **Willy Zondo**.

A handwritten signature in dark ink, appearing to be 'M. Dlamini J', written over a horizontal line. The signature is stylized and somewhat abstract, with a large loop on the left side and a sharp point on the right.

M. DLAMINI J

For the Applicant : **N. Gwiji of N.E. Gwiji Attorneys**

For the Respondents: **Z. Magagula of Zonke Magagula & Co.**