

## Expropriation of Sipho Malunga and partners' farm unlawful

The Newshawks by Ezra Tshisa Sibanda

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*Siphosami Malunga*

The High Court in Bulawayo has ruled that the expropriation by the state of land owned by prominent human rights lawyer Siphosami Malunga and his business partners, Zephaniah Dlamini, and Charles Moyo, through their company Kershelmar Farms (Private) Limited, was unlawful and unconstitutional.

The land, which was gazetted for compulsory acquisition by Minister of Lands, Agriculture, Water and Rural Resettlement Anxioud Masuka in December 2020, had been at the centre of a protracted legal dispute between the state and the farm's owners — indigenous Zimbabweans.

"This acquisition represents a blatant disregard for the principles of legality. The constitution and the Administrative Justice Act demand procedural fairness and substantive compliance. None of these were observed here," Justice Bongani Ndlovu said in a judgment delivered on Monday.

The applicants — Malunga, Dlamini, and Moyo — directors and shareholders of Kershelmar Farms, approached the court arguing that the acquisition process was fundamentally flawed and unconstitutional.

"The failure to involve the farm owners in the process is a denial of their fundamental rights. Taking land from one group of black Zimbabweans to give to another undermines the very purpose of land reform," Ndlovu ruled.

The court also dismissed claims that the farm transaction, specifically the sale of shares in Kershelmar Farms, was a simulated arrangement designed to circumvent land laws.

Ndlovu said that the legality of the share transfer was not in dispute and could not be used to justify unlawful acquisition of the farm.

As a result, the judgement declared the seizure of the farm null and void, including any offer letters issued to prospective beneficiaries.

“An offer letter cannot stand on a foundation of illegality,” Ndlovu said. Following the ruling, Malunga and his partners can now resume work at their farm without hindrance after years of uncertainty and legal battles.

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