



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

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

From: The Registrar, Supreme Court of Appeal  
Date: 25 March 2020  
Status: Immediate

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

**Staufen Investments (Pty) Ltd**

v

**Minister of Public Works and others**

**(200/19) [2020] ZASCA 18 (25 March 2020)**

Today the Supreme Court of Appeal granted an order varying an order of the Eastern Cape High Court, Port Elizabeth, but otherwise dismissing the appeal by Staufen Investments (Pty) Ltd (Staufen) against the order of that court with costs.

Staufen is an owner of property in the Eastern Cape. When it acquired the property, Eskom was operating an electrical substation, with overhead power lines running to and from the substation, on the property. Eskom also had the benefit of a right of way over the property to the substation. Although a notarial deed had been concluded in the late 1990's between Eskom and the then owner of the property providing for the right to operate an electrical substation on the property and to lead the overhead power lines to and from the property, these rights were never registered against and carried forward in the subsequent title deeds of the property, including that of Staufen. This was due to an oversight. Eskom's use of the property for those purposes was accordingly unlawful. Staufen sought to evict Eskom from

the property. To ensure the continued supply of electricity to consumers supplied from the substation, the Minister of Public Works decided to expropriate servitudes to allow the substation, power lines, and a right of way over the property. Staufen's challenge to the validity of that decision on the basis inter alia that it was not competent to expropriate the servitudes to correct Eskom's unlawful occupation and use of its property, and on the basis that the process was procedurally unfair, was dismissed by the high court. The high court amended the expropriation decision to clarify which power line servitudes were expropriated. The SCA concluded that the amendment was unnecessary, amended the order, but otherwise found Staufen's review to lack merit. The appeal was accordingly dismissed.