

Twelve Committee

Daggakraal No 2
Stand 140
Vlakpoort
Pixley Isaka Ka Seme
Municipality
Mpumalanga
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The Speaker of Mpumalanga Legislature

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1200

Re: Submission on the Traditional Courts Bill by Daggakraal Community Authority.

1. The farms that I am going to talk about are portion 90hs Daggakraal and portion 87hs Vlakplaats, which together constitute one out of three farms that were purchased by Pixley Isaka ka-Seme – namely, Daggakraal, Driefontein and Driepan, situated in the east of Mpumalanga Province. Portion 90hs Daggakraal and portion 87hs Vlakplaats were consolidated, rezoned, subdivided, proclaimed and became three farms – namely, zone 1, 2 and 3. These farms were purchased by black farmers who were issued title deeds. This area consists of 343 land owners and has about 40 000 people. Ntshebe Ngwenya embarked on a search for land; that is, when he met Pixley Isaka ka Seme who was a founding member and first treasurer of the South African Native Congress and also founded the African Native Farmers Association* (ANFAA) which was registered as a company in 1912. The ANFAA bought these three farms at 3 pound per Morgen. In 1912, the three farms were bought by Pixley Isaka ka Seme consulting with Mr Gouws’

Agents known as (Slazenger Trust) who was the owner of the farms. Through a committee that he set up he was able to collect an amount of 100 pounds from each of the people who intended to buy and they were able to collect 6000.00 pounds cash in order to be able to buy these three farms. There were 60 families involved in the purchase of this land. After the surveyor had sub-divided the farm, Daggakraal, into mostly 10 morgen plots, the founders were allocated a numbered plot each. This all happened before the 1913 Land Act and these properties were bought through a company before the introduction of the 1913 Act that would take away people's land. In 1913, the Board seeing that the Company still needed funds still owing to Mr Gouws for the sale of the farms passed a resolution to raise a bond with African Colonial Banking and Trust Company of Africa Ltd. This was approved unanimously. As a result the company was able to pay its debt to Mr Gouws in full. In 1916, four years after the settlement of Pixley ka Seme, the Makhlokwe tribe who were a branch of Witsieshoek, led by Chief Maitse Moloi and his son Popo Moloi, heard that land was being sold in the area they then bought and moved from the Free State into Daggakraal. Already during that time in 1916 it was made clear that the chief was purchasing property like everybody else and therefore had no authority over the Daggakraal community who had purchased in the area as their **properties were regarded as fully paid freehold stands**, they bought at Daggakraal no 2. There was also the farm called Daggakraal no 3 (which is portion 87hs and is commonly known as Vlakplaats). This area was bought after 1916 by another black group (whose names are on record). Now the proposed Traditional Courts Bill takes away our title deeds and put us under "the jurisdiction of the nearest chief". We were never subjected to chieftaincy and traditional authority even under apartheid.

2. The community continued to reside in the area from 1912 without problems and not under any traditional authority. In 1950, there was an attempt by the government to forcibly remove the people of Daggakraal from the area, it emerged that each would be relocated according to their culture, the Swazi's would be relocated to Kangwane homeland, Zulu speakers to Babanango in Kwazulu and Sotho speakers to Qwaqwa. This was done through the introduction of the Black Authorities Act interlinked with the tribal authority systems wanting to introduce a chieftaincy in order to have a leader who would override any other authority in the area. An official from the then Department of Constitutional Development and Planning came to Daggakraal to conduct community elections but was chased away by angry land owners who told him that he had no mandate to conduct elections in Daggakraal. One of the landowners Abner Dlamini, whose father, Alexander Dlamini, was the general-secretary of the AFAA when its chairman and ANC co-founder, Pixley Isaka Ka-Seme, bought the land in 1912, said that ***"we reject both the tribal authority and the Community Act which the government is***

ramming down our throats". Finally, after a long battle in 1982, Mr Piek, an official from the Transvaal Provincial Administration announced that the government had made a decision that the people would remain in Daggakraal and that this would not change. He stated that a **community authority** would be established which would have direct communication with government; this would apply to all of Daggakraal. Piek said that elections would be conducted and only land owners would be eligible for election. He also said that the **community authority** would not be run by a chief because the landowners could not have a chief ruling over them. The community welcomed the decision. Mr Gweje Twala said "*we are particularly happy that the government has decided that Daggakraal will not be run by a tribal authority, but by a community authority as we have requested over the years*". The State president authorised the establishment of the **Community Authority** for Dagaakraal 1, 2 and Vlakplaas (Daggakraal 3). This was done under the Proclamation in government gazette Notice 744 of 1988. (A copy of this is attached to this submission.) Thereafter, in 1989, a letter to Chief Moloi was sent by Department of Constitutional Development Services stating that Moloi was *not* the chief of the Daggakraal Area; they even said that he was a chief without land. (A copy of this is attached to this submission). Chief Moloi knew at all times that he had no authority over the community of Daggakraal although he held the title of chief; he was just an ordinary land owner like everyone else. The problem we currently face are that The chief together with government wants to have jurisdiction over our land, we are people from different backgrounds and do not practice a singular culture and custom so how will chief Moloi handle disputes amongst us. The position taken by the community of Daggakraal is that this history shows that we have never had traditional authority and we do not want to have one.

3. Section 29 read with section 19 of Mpumalanga Traditional Leadership and Governance Act 3 of 2005 empower the chief to have authority over our land and it will dispossess the investment that was created by our forbearers, who only had informal education but managed to acquire land for survival as early as 1912. For example the government gazette dated 09-04-2010 changed tune when it reflected that the Chief now has jurisdiction over Pixely Isaka ka Seme Municipality, giving him authority over our land. We therefore recommend that the Bill should be withdrawn in entirety, failure of which we recommend that the Bill be amended in a manner that will exclude privately owned land.
4. The first time we heard about the TCB was on the 30 January 2012. We did not receive any community communication from the government of any kind. The only reason we found out about the Bill was when an NGO was asking us about our views in regards to the Bill. If we had been consulted on the issue we would have stated our case and we

believe that the government would have been better informed had they consulted with the communities when the TCB was first drafted.

5. It is very imperative and prudent for ordinary rural people to be consulted because they are ordinarily marginalized. We as rural people don't have access to electronic media or news papers for that matter. This whole exercise of the TCB will actually take away the only hope that we were privileged to back in 1912 by Seme. When this pocket of land was acquired, at that time ownership of land to the natives was unheard of, Daggakraal was the Promised Land for black Africans.
6. We therefore recommend that future element of this nature must be broadcasted on television or even radio so as to enable the broader society to know and be contacted. Methods such as hailing (over the speaker) will be better because hailing does talk to the broad based community. Announcement of consultation dates must be done six months before the actual date. Due to this Bill land owners can be evicted from their land and that could affect their rights as South African citizens. This will turn us into squatters in our own land.