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MEDIA STATEMENT

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VICTORY FOR FORGOTTEN SHACK DWELLERS

High Court orders eThekweni Mayor, City Manager and Director of Housing responsible for ensuring compliance with court order to provide houses to evicted Siyanda occupiers

Today the Durban High Court handed down a ground-breaking judgment in *Mchunu and Others v Executive Mayor of eThekweni and others*, following a hearing held on 17 September 2012. The decision, given by Acting Judge Nigel Hollis, requires the Mayor of eThekweni, the City Manager and the Director of Housing to take all the necessary steps, within three months, to provide permanent housing to 37 poor families living in a transit camp near KwaMashu, Durban. If they do not, they may be fined or imprisoned.

Today's judgment comes after the Durban High Court ordered the eThekweni Municipality to provide houses to 37 families of Richmond Farm Transit Camp in KwaMashu. The families had been evicted from the Siyanda informal settlement in March 2009 in order to allow for the construction of a road. One of the conditions of the eviction order was that eThekweni Municipality would provide the families with permanent housing *within a year*. The deadline for this redress expired in 2010, and nothing has been done to comply with the order. The occupiers were simply abandoned at the transit camp, to live in appalling conditions indefinitely. With the assistance of Abahlali baseMjondolo and SERI, they took the municipality to court, demanding the implementation of the 2009 court order.

Today the Durban High Court declared that the Executive Mayor, City Manager and Director of Housing at eThekweni Municipality are "constitutionally and statutorily obliged to take all necessary steps" to comply with the 2009 order. These three municipal office-bearers must ensure that the municipality provides the housing due to the families for the last two-and-a-half-years, or face being held in contempt of court.

Teboho Mosikili, attorney at SERI, said: "This is a victory for the rule of law. This case has important implications for local government accountability, as it means that municipal office-bearers can no longer hide behind nebulous administrations for the performance of constitutional obligations. Municipal office-bearers are responsible for giving effect to court orders and constitutional obligations placed on municipalities. If they do not take this responsibility seriously, they can be held in contempt and fined or sent to prison. The Mayor of eThekweni, the City Manager and the Director of Housing have simply ignored my clients' repeated petitions that they comply with the court order. If they now continue to do so, the consequences for them could be very severe indeed."

According to Bandile Mdlalose, General Secretary of Abahlali: "This judgment is a victory for all the shack dwellers that are dumped to rot in transit camps. We want to express our deepest gratitude to our legal team from SERI. While we celebrate this victory, Abahlali are worried that we may be attacked and receive death threats, as happened after the Constitutional Court victory against the KZN Slums Act when Kennedy Road was attacked leaving two people dead in September 2009."

Advocates Geoff Budlender SC, Stuart Wilson and Nicole Lewis represented the families in court.

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