

# Judges in shack demolition case fail to reach agreement

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4 Dec 2020

The case brought by the South African Human Rights Commission and EFF against the City of Cape Town and others is to be heard before three judges of the Western Cape High Court, after the two judges assigned to the matter, Judges Yasmin Meer and Rosheni Allie, could not reach an agreement.



The evictions case brought by the South African Human Rights Commission in Cape Town is to be heard by a full bench of the High Court. Archive photo: Ashraf Hendricks / GroundUp

The SAHRC, represented by the [Legal Resources Centre](#), wants an [interim August court ruling](#) on evictions to be made final. On 25 August, Judges Meer and Allie [ruled in favour](#) of the SAHRC and the EFF. This meant that while the state of national disaster prevailed, the City's Anti-Land Invasion Unit (ALIU) would not be allowed to evict people or demolish their structures, whether occupied or unoccupied, without a court order.

The SAHRC wants to extend this ruling to hold generally, arguing that the principle of counter-spoliation is unconstitutional in the context of the right to housing.

But the City, and the Western Cape government, oppose this, arguing that the common law principle of "counter-spoliation" recognises an owner's right to immediately retake possession of unlawfully taken property, without approaching a court first.

Judges Meer and Allie said on 1 December that they had not been able to reach agreement and that the matter would now have to be reheard by three judges of the Western Cape High Court.

The date of that hearing is not yet known.

*This article was [originally published](#) on [GroundUp](#).*

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