**PRESS RELEASE**

SARDA is dissatisfied with the unanimous Constitutional Court judgment handed down on
23 February 2017.

The Constitutional Court made its order without the benefit of the record in the Land Claims Court and without giving SARDA’s legal representatives the opportunity of presenting oral argument.

The original claim in the Land Claims Court was for the restoration of Erf 2274, Constantia, which had been occupied by the Sadien family prior to the promulgation of Proclamation 34 of 1961 under the Group Areas Act, declaring Erf 2274 as a “*white area*”.

Partly because Erf 2274 had been developed and was worth between R80 million and
R140 million, and its restoration would cause a “*strain on the finances of the department”* (the *ipsissima verba* of Mr Acting Justice Mpshe), the Land Claims Court decided to award alternative State land.

Crucial facts were omitted from the Constitutional Court judgment:

1. That the forebear through whom the successful Claimant made his claim was entitled to only a one fifth undivided share of the dispossessed land, Erf 2274 Constantia.
2. The monetary equivalent of the claim, taking into account that the dispossessed land was disposed of for value, was only R112 670.
3. The amended order awarding SARDA land, was procedurally irregular and made contrary to the provisions of Rule 64 of the Land Claims Court Rules.

The Constitutional Court omitted to deal with SARDA’s legal argument which was as follows:

* Two other parcels of State land were available to satisfy the claim: Erf 1783 Constantia and Erf 3110 Constantia.
* In the ordinary course, the termination of SARDA’s lease would constitute an administrative Act of the Minister of Public Works who administered the land pursuant to the Disposal of State Land Act. This would usually entail a right to be heard prior to the lease being terminated, a proposition for which there is Supreme Court of Appeal authority.
* Yet the Land Claims Court, without giving SARDA an opportunity to be heard, made an order disposing of the land to Mr Sedick Sadien.

To conclude, in its judgment the Constitutional Court has given its *imprimatur* to a procedurally irregular Land Claims Court order awarding land worth R128 million to an individual Claimant for a claim worth only R112 670.

Readers are referred to SARDA’s application for leave to appeal to the Constitutional Court and its written submissions on its website.