



CONSTITUTIONAL COURT OF SOUTH AFRICA

Minister for Justice and Constitutional Development v Nyathi and Others

Case CCT 53/09

Date: 31 August 2009

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

The Constitutional Court issued an order today in an application by the Minister for Justice and Constitutional Development for the extension of a suspended order of constitutional invalidity. The matter was heard on Wednesday 12 August 2009. In *Nyathi v MEC for Health, Gauteng and another* 2005 (5) SA 94 (CC), the Constitutional Court declared section 3 of the State Liability Act 20 of 1957, which prohibits parties to whom debts are owed by the State from executing against or attaching state assets for the satisfaction of judgment debts, to be unconstitutional. The Court suspended the declaration of invalidity for a period of 12 months to allow Parliament to pass legislation that provided for the effective enforcement of court orders. On 1 June 2009, the Constitutional Court issued an order extending the period of suspension to Monday 31 August 2009.

In a unanimous decision, the Court granted an order which extended the period of suspension of the order of invalidity for a further 24 months, until 31 August 2011. The Court proposed an interim order which would operate during the extended period of suspension to provide for a tailored attachment and execution procedure against State assets. The parties and the Minister for Finance were directed to submit written argument on or before 15 September 2009 showing cause why the proposed interim order should not be made and proposing an alternative, if any, to such order.

The Court indicated that a full judgment with reasons for the decision would follow in due course.