

## Traditional marriage issue heads to top court

A battle over what constitutes a traditional African marriage is headed to the Constitutional Court. The break-up between former MTN CEO Sifiso Dabengwa and Joburg Theatre CEO Xoliswa Nduneni-Ngema led to a 10-year legal fight, with Nduneni-Ngema seeking half of the multimillionaire's estate, says a [Sunday Times](#) report. She claims that successful lobola negotiations and *umembheso* (an exchange of gifts) in March 2003 meant the pair were married. But, as reported previously, the High Court and Supreme Court of Appeal disagree. Last year, notes the [Sunday Times](#) report, Judge Colin Lamont, of the Gauteng High Court (Johannesburg), found that Dabengwa did not give consent to be married at the lobola celebrations. He turned down Nduneni-Ngema's application for leave to appeal, prompting her to apply to the SCA, which dismissed her application, saying there was no prospect of success. Nduneni-Ngema's attorney, Ike Motloung, confirmed they would 'approach the Constitutional Court'. **Central to Nduneni-Ngema's argument are lobola negotiations concluded at her home, as well as a 'ceremony' that happened afterwards.** She also argued that Lamont had erred in failing to consider the constitutionality of the requirement of delivery of the bride to the family of the groom. 'Had the judge done so, he would have found that the practice is unfairly discriminatory against women, or alternatively that such delivery occurred indirectly after the parents of both parties allowed them to cohabit after the lobola negotiations and the subsequent ceremonies,' Nduneni-Ngema said. In papers opposing the application, Dabengwa argued he never consented to be married by customary law. Nduneni-Ngema never raised the issue of constitutionality of the bride's handover during the trial, he added. Dabengwa's attorney, Billy Gundelfinger, said his client would 'strenuously oppose any appeal to the Constitutional Court'.