

1274



THE HIGH COURT OF SWAZILAND

PAULOS E. DAVISON

1st Applicant

MARGARET MABUZA

2nd Applicant

PETER J. DAVISON

3rd Applicant

MICHAEL P. DAVIDSON

4th Applicant

WILLIAM T. DAVIDSON

5th Applicant

SIBIMBI INVESTMENTS (PTY) LTD

6th Applicant

And

JANNIE DAVIDSON

1st Respondent

MASWAZI NSIBANDZE N.O

2nd Respondent

In re:

JANNIE DAVIDSON

Petitioner

And

PAULOS DAVIDSON

1st Respondent

MARGARET MABUZA

2nd Respondent

PETER J. DAVIDSON

3rd Respondent

MICHAEL P. DAVIDSON

4th Respondent

WILLIAM T. DAVIDSON

5th Respondent

SIBIMBI INVESTMENTS (PTY) LTD

6th Respondent

Civil Case No. 1237/2003

Coram

For the Applicants

For the Respondents

S.B. MAPHALALA – J

MR. SHONGWE

MR. L. MAMBA

RULING

(06/06/2003)

The Applicants filed an urgent application for an order in the following terms:

1. Condoning the non-compliance with the usual requirement of the Rules of Court regarding the notice and service of the application and hearing the matter as one of urgency.
2. Setting aside the writ of execution of immovable property issued by 1st Respondent in the above Case Number the 8th day of April 2003.
3. Staying the execution of the above stated writ pending the hearing and finalization of this matter.

4. That a rule *nisi* do hereby issue calling upon Respondents to show cause, on a date to be determined by the Honourable Court why an order in terms of paragraph 2 and 3 should not be final.
5. That the orders sought in terms of paragraphs 2 and 3 hereof operate with immediate effect as an interim relief.
6. That the Applicants be granted the costs of this application in the event of unsuccessful opposition by the Respondents.
7. Such further and/or alternative relief which may appear fit and proper to the above Honourable Court.

The founding affidavit of the 2nd Applicant is filed in support thereto. A confirmatory affidavit of the 1st Applicant is also filed. A number of annexures pertinent to the Applicant's case are filed in support thereto.

Mr. Mamba for the Respondent filed a Notice of Intention to oppose on the 28th May 2003. He thereafter on the 30th May 2003, filed an opposing affidavit deposed to by himself.

The matter came before me in the uncontested roll of the 30th *ultimo* where I heard brief submissions and I then reserved my ruling. The issue revolves around the affidavit filed by *Mr. Mamba*. *Mr. Shongwe* for the Applicant challenged this affidavit on a number of points. On the other hand *Mr. Mamba* took the view that the averments raised therein disposes of the matter.

I have considered the affidavit and I am of the considered view that in order for this issue to be fully ventilated the Respondents are to file a proper answering affidavit in the normal way. This is a complicated matter which touches on a number of vexed questions of fact and law.

In the premise, I rule that the matter take its normal course and the rule *nisi* issued on the 30th May 2003 extended to a date to be agreed to by the parties.

I make no order as to costs.



S.B. MAPHALALA

JUDGE