

IN THE HIGH COURT OF LESOTHO

In the Application of

MPITI MOLAPO

J U D G M E N T

Delivered by the Hon the Chief Justice Mr Justice
T S. Cotran on the 6th day of April 1984

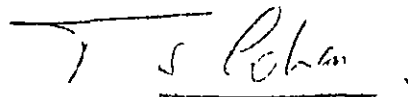
This is an urgent ex-party application by one Mpiti Molapo who describes himself as the sole proprietor of Highway Butchery, a milk farmer, and speculator in livestock, in which he seeks an order placing his business in "judicial management" in the hands of auditors of his choosing, stay of "civil proceedings and execution in respect of debts by him" and a further interim interdict to restrain his creditors from taking civil action or executing judgments obtained against him

This is an unusual application

Mr Tsotsi who appeared for the applicant conceded that the application does not fall within any provisions of the Insolvency Proclamation but maintained that it is competent under the common law. He cited Fairlie v Raubenheimer 1935 AD 135 especially the judgment of Beyers JA which is in Afrikaans, a language Mr. Tsotsi says he can understand though not very well Scharff's Trustee v Scharff 1915 TPD 463 I see nothing in these cases which is helpful. He then referred to Mars in his Law of Insolvency in South Africa 5th Edition p 2-4 and especially in Re Heynes a case decided

/on 3rd June

on 3rd June 1717 extracted from the Cape Archives 1679-1728. This chapter deals with the legal history of insolvency. This application can only be entertained, if at all, when the creditors of the applicant have notice of the application. The High Court declines to act



CHIEF JUSTICE
6th April 1984

cc Mr Tsotsi