

CIV/APN/120/95

IN THE HIGH COURT OF LESOTHO

In the matter between :

MOTAKE LERATA

Applicant

vs

CHERE KALANYANE
MAGISTRATE OF TY
MESSENGER OF COURT (TY)

1st Respondent
2nd Respondent
3rd Respondent

JUDGMENT

Delivered by the Honourable Mr. Justice T. Monapathi
on the 9th day of August, 1995

The magistrate's court's award of damages by default judgment of the 16th December 1994 in cc82/94 was irregular and in contravention of sections 17 and 26 of Subordinate Courts Order No. 9/88. There is only one claim but many heads and one cause of action. The claim exceeds M10,000.00 being the upper limit of the jurisdiction of that Court. See also M. LETSIE vs M. MONYANE & 2 Others CIV\APN\23\93 per W.C.M. Maqutu J (27\09\94). The presiding magistrate also exceeded his jurisdiction of M7,000.00. The judgment was irregular and it ought to be set aside.

The application is allowed, the proceedings and warrant of Execution are set aside and other prayers confirmed in terms of 1 (a) (b) (c) (d) and (e). which is for costs to the Applicant.

T. MONAPATHI
9th August, 1995

For the Applicant : Mr. Phoofolo

For the Respondents : Mr. Khaueo