

IN THE HIGH COURT OF LESOTHO

In the matter between:

CHIEF HLABANA M. HLABANA

APPELLANT

and

CHIEF MATSOSO LEPHOTO
CHIEFTAINNESS 'MASENATE BERENG
NKOJOANA TS'EPISO
MINISTER OF INTERIOR & CHIEFTAINSHIP
AFFAIRS

1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT
4TH RESPONDENT

JUDGMENT

Delivered by the Honourable Acting Justice Mrs. J.K. Guni
On the 4th day of September, 1995

The applicant, a gazetted headman of Litsiloaneng in the district of Mohale's Hoek applied to this court for restraining order against 1st respondent, Chief Lephoto also a gazetted headman of THABA LETHU in the district of Mhales's Hoek, 2nd respondent, Chieftainness 'Masenate Bereng, the gazetted acting Principal Chief of Phamong in the Mohale's Hoek district, and 3rd respondent Nkojoana Ts'episo who is described merely as a right

headman of 1st respondent, from interfering in anyway except by process of law, with the applicant's exercise of powers as a headman of three areas: - namely

1. Sekoting
2. Leoporo
3. Rhodesia.

And further, that 1st and 3rd respondents should desist from exercising powers of headman over those three areas, and that 1, 2 and 3rd respondents should pay the costs of his application.

This application is partly opposed, because only two of the four respondents have filed opposing papers. That is the 2nd and 3rd respondents. 1st and 4th respondents do not oppose this application. According to Mr. Mafantiri 1st respondent is the person most definitely will be affected by the order sought. He is the person with great interest and title to be affected by the order sought. But he, 1st respondent does not oppose the order so sought.

From the outset it became clear that there are only two issues that must be determined by this court in this application. The first issue is about who has the authority to exercise the powers of a headman over the area of SEKOTING. Is that area of Sekoting known and demarcated so that it forms a distinct and separate area of its own? No one appears to challenge the authority of the applicant to exercise the powers of the headman over the areas of Leoporo and Rhodesia.

The 2nd respondent does not seek, or claim, to be left alone to continue to interfere with the applicant in the exercise of his powers of a headman in Sekoting or any other areas mentioned by the applicant in this application as the place where he should enjoy undisturbed exercise of his powers as a headman. 2nd respondent claims not to know the boundaries of the area where the applicant is gazetted as a headman - Litsiloaneng. 2nd respondent does not however claim jurisdiction on Litsiloaneng or any part thereof. His opposition to the application has no basis. He does not claim any right to exercise any functions of the headman over any of the areas which the applicant seeks to exclude his\her interference. He does not claim to have any right at all to interfere with the applicant in the exercise of his powers as the headman of those areas.

3rd respondent who is described just as a Mosotho male adult and a right handman of the 1st respondent, does not bother to show this court what right or title he has to interfere with the ~~exercise~~ exercise of the powers of the headman by the applicant in the areas of SEKOTING, LEOPORO and RHODESIA. 3rd respondent claims that one area, that of Sekoting falls under the jurisdiction of the Chief of THABA-LETHU first respondent herein. The 1st respondent does not make any such claim. Why does the man described merely as his right handman claim that 1st respondent has the right which, he, the 1st respondent dare not claim? On what basis is the 2nd respondent claiming this area Sekoting on behalf of 1st respondent? On these papers filed of record, the 2nd respondent made no attempt, whatsoever, to show this court

the grounds on which he purport to claim jurisdiction over the area of SEKOTING for 1st respondent or on his behalf. He cannot be heard to pray that the applicant's prayers on that basis alone should be dismissed. He, 3rd respondent must claim the real right himself. This he does not claim.

In this circumstances this application must succeed with costs against 2nd and 3rd respondents only.

K.J. GUNI

ACTING JUDGE

For Appellant	:	Mr. Mafantiri
For 2nd and 3rd Respondents	:	Mr. Maieane