

IN THE HIGH COURT OF LESOTHO

In the Application of :

**LESOTHO HOTELS INTERNATIONAL(PROPRIETARY)
LTD**

Applicant

vs

**THE MINISTER OF TOURISM SPORTS & CULTURE
THE CHAIRMAN OF THE CASINO BOARD
COMMISSIONER OF POLICE
ATTORNEY-GENERAL**

**1st Respondent
2nd Respondent
3rd Respondent
4th Respondent**

RULING

**Delivered by the Hon. Mr Justice M L Lehohla on
23rd day of January, 1998**

After *Mr Vaccaro* formally introduced himself as appearing for the applicant and when he had handed over his heads of arguments and was about to address Court, *Mr Putsoane* who said he is appearing for the respondents informed Court that his heads are about to be handed over but further that the Director of Public Prosecutions wishes to be joined as an interested party in this proceeding.

He referred the Court to CIV\APN\58\95 *Easterbrook Transport (Pty)Ltd*

vs The Commissioner of Police and the Attorney General (unreported) and to the Appeal Court decision emanating from that judgment i.e. C. Of A. (CIV) No.7 of 1995 *Director of Public Prosecutions & 2 Ors vs Easterbrook* (unreported).

Mr Putsoane had argued that where there is criminal element in a matter which is in fact civil the Director of Public Prosecutions has to be cited and joined.

Mr Buys responded by indicating that it wasn't true that the aspect referred to the Court of Appeal was that of joinder based on a complaint that the Director of Public Prosecutions had been left out.

He submitted that Maqutu J in the application had made an order directing that the Director of Public Prosecutions be cited in the proceedings before him because the Director of Public Prosecutions was *deminus litis* in criminal proceedings which were already instituted and where the accused were already charged.

Then a 3rd party became involved who wasn't one of the accused and applied for an order for release of vehicles in terms of provisions of the Criminal Procedure and Evidence.

Learned Counsel informed Court that it was in this connection that the learned Maqutu J ordered that the Director of Public Prosecutions be cited.

Although for a moment I was wondering why in fact this application, for largely the same reasons as Mr Buys advanced, should be made regard being had, as Mr Buys pointed out, to the fact that Mr Mdhuli actually moved the application in Chambers after the initial order had been obtained on behalf of the applicant, it became clearer to me later that there was a distinction between Mr Mdhuli appearing as Counsel and Mr Mdhuli the Director of Public Prosecutions appearing as a party.

In this regard I am inclined to accept the application for citation and joinder of the Director of Public Prosecutions.

Mr Buys had gone further to indicate that his leader *Mr Vaccaro* would deal with the aspect of the interim relief should the Court reject the applicant's opposition to the postponement being sought on behalf of the Director of Public Prosecutions.

Without forestalling what arguments would be raised I wonder if it would benefit this proceeding to be argued piecemeal while in view of the order I have just

made the Director of Public Prosecutions has to be cited and joined.

I am however disposed to consider the question of finding immediate dates for hearing the application as a whole on account of its urgency.

A handwritten signature in black ink, appearing to be 'Mr. P.', written over a horizontal dashed line.

J U D G E

23rd January, 1998

For Applicant : Mr Vaccaro

For Respondents : Mr Putsoane