IN THE COURT OF APPEAL OF LESOTHO

Held at Maseru

C OF A (CIV) 13 of 2007

In the matter between:

MOSEBATHO MALAKANE **APPELLANT**

and

BESELE MALAKANE **1ST RESPONDENT**
MOTETE DUNCAN MALAKANE **2ND RESPONDENT**
MONTOELI MALAKANE **3RD RESPONDENT**
SERAME MALAKANE **4TH RESPONDENT**
MOHAU MALAKANE **5TH RESPONDENT**
THE MASTER OF HIGH COURT **6TH RESPONDENT**
THE ATTORNEY GENERAL **7TH RESPONDENT**

CORAM: T.E MONAPATHI, JA
A.M HLAJOANE, JA
P.T. DAMASEB, AJA

HEARD **:** 30 JULY 2015
DELIVERED **:** 7 AUGUST 2015

SUMMARY

Application before High Court for declaring 1st respondent herein heir over estate of Thabo Oswin Tennyson Malakane – High Court having found for the 1st Respondent on 7 May 2007 – Appeal noted to this Court on 20 July 2007 – Application for condonation for late filing of the record and reinstatement of Appeal followed by application for stay of execution - Application for postponement of Appeal to the next session.

JUDGMENT

HLAJOANE, JA:

[1] The 1st respondent herein was granted an order by the High Court declaring him the heir over the estate of Thabo Oswin Tennyson Malakane. The Court granted an interim order on the 25 October 2006. On 7 May 2007 the Court granted an order declaring Besele the heir to the estate, and the appellant herein noted an appeal against that order.

[2] The appeal was noted and the grounds of appeal duly filed in 2007. There came an Application styled condonation for late filing of the record, the late prosecution of the appeal and reinstatement on the roll dated 8 September, 2014.

[3] On 16 July 2015 we were served with a document styled Notice of Motion, in the matter of application for postponement. The matter had been enrolled for 30 July 2015 for hearing. The postponement has vehemently been contested by the other side,

but appellant's counsel insisted on the postponement and tendered costs.

[4] By agreement with counsel on both sides the following order is made;

- The appeal is postponed to the next session with costs for the 1st respondent on ordinary scale.

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A.M. HLAJOANE

JUDGE OF APPEAL

I agree

_____

T.E. MONAPATHI

JUDGE OF APPEAL

I agree

_____

P.T. DAMASEB

ACTING JUDGE OF APPEAL

For Appellant : Adv. Nathane K.C

For Respondent : Adv. Thulo