**IN THE COURT OF APPEAL OF LESOTHO**

 **C of A (CIV) No.4/2021**

**HELD AT MASERU**

In the matter between

**ASIF MAHMOOD NAEEM 1ST APPELLANT**

**RAMAZANI ALI 2ND APPELLANT**

**NKWATILE KOSE 3RD APPELLANT**

**SHAKIL AHMAD 4TH APPELLANT**

and

**ALI RIZWAN 1ST RESPONDENT**

**MULTI FURNITURE & HARDWARE. 2ND RESPONDENT**

**LICENCING AUTHORITY**

**MINISTRY OF TRADE AND INDUSTRY 3RD RESPONDENT**

**MINISTRY OF TRADE AND INDUSTRY 4TH RESPONDENT**

**OFFICER COMMANDING SEKAKE POLICE 5TH RESPONDENT**

**COMMISSIONER OF POLICE 6TH RESPONDENT**

**ATTORNEY GENERAL 7TH RESPONDENT**

**CORAM: K E MOSITO P**

 **M H CHINHENGO AJA**

 **NT MTSHIYA AJA**

**Heard:** 20 April 2021

**Delivered:** 20 April 2021

**CHINHENGO AJA:-**

**RULING**

[1] The 1st appellant sought interdictory relief in the High Court on an *ex parte* basis against the 1st respondent and 6 others in order to prohibit them:

(a) from trading in and selling stock in the business belonging to the 2nd respondent at Lethloepe Business compound (Qachas’neck reserve) and Ha Sekake business compound;

(b) from removing and disposing of the stock in those business premises;

 (c ) from obstructing the 1st appellant’s agents from removing the stock; and

(d) directing the Police respondents to give necessary assistance to the 1st appellant in removing the stock and permitting the 1st appellant to remove the stock from the business compounds.

[2] A perusal of the affidavits shows that several persons were unnecessarily cited as parties in this litigation. In passing, I must sound a warning that in future this Court may be constrained to disallow the cost of service of process upon persons that should not be made parties to litigation. In this case, for example, it is uncalled for to involve the police in the litigation or cite and serve them with papers therein when it is trite that orders in civil matters are enforced through execution mechanisms that involve the sheriff and not necessarily the police. To unnecessarily burden a litigant with the costs of service of process is completely inappropriate.

[3] The application was opposed. The court *a quo* first granted an order directing that the matter be heard as an urgent one and that the application be served on the respondents. After a further hearing the court issued a *rule nisi* granting the relief sought by the 1st respondent. The appellants noted an appeal against the granting of the *rule nisi* after it dismissed certain preliminary objections raised by them, in particular, an objection to jurisdiction.

[4] At the hearing of the appeal counsel for the appellants conceded that the appeal was misconceived and agreed to an order by consent which I set out below. It is therefore unnecessary to outline the facts of this case or to address any of the issues and contentions that resulted in the concession by appellants’ counsel and the order by consent

[5] In the result, this Court makes an order in terms of the order by consent as follows:

“1. The appeal is dismissed with costs.

1. The application in CCA:0003/21 to proceed as scheduled.”

****

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**MH CHINHENGO**

**ACTING JUSTICE OF APPEAL**

I AGREE



\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**K E MOSITO**

**PRESIDENT OF THE COURT OF APPEAL**

I AGREE



\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NT MTSHIYA**

**ACTING JUSTICE OF APPEAL**

**FOR APPELLANT:**  ADV. CJ LEPHUTHING

**FOR RESPONDENTS:**  ADV.P J TS’ENOLI