

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 CHINHENGGO 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