**IN THE HIGH COURT OF LESOTHO**

**HELD AT MASERU CIV/APN/291/2020**

In the matter between:

**RAMASELI RANTHAKO APPLICANT**

and

**SELLOANE RANTHAKO 1st RESPONDENT**

**EMISANG RANTHAKO 2nd RESPONDENT**

**`MATIEHO RANTHAKO 3rd RESPONDENT**

**`MAMOTHOBI RANTHAKO 4th RESPONDENT**

**`MATUMELO RANTHAKO 5th RESPONDENT**

**MASTER OF THE HIGH COURT 6th RESPONDENT**

**ATTORNEY GENERAL 7th RESPONDENT**

Neutral Citation: Ramaseli Ranthako v Selloane Ranthako & 6 Others [2022] LSHC 145 Civ (20 June, 2022)

**Coram : Khabo J.**

**Heard : 14th June, 2022**

**Ruling : 20th June, 2022**

**RULING**

**Points in *limine***

1st Respondent’s Counsel raised the following points in limine ***viz.,*** jurisdiction, *locus standi in judicio*, misjoinder and non - joinder

**Brief factual background**

The Applicant is the son of the late Moseme Ranthako and `Mahalio Ranthako. The latter predeceased her husband, and her husband later married the now late `Malerato Ranthako.

The 1st Respondent is the daughter of Moseme Ranthako and his first wife, `Malerato Ranthako. Applicant is the son of Moseme Ranthako and `Malerato Ranthako who he married after the death of `Maliako who passed on in 1972. Moseme died intestate.

**Issue**

This dispute arises from the appointment of the 1st respondent, Selloane Ranthako as heir to the estate of the late Moseme Ranthako following a decision made at a family meeting between 2nd to 5th Respondents on October, 2019.

**Submissions**

1. **Applicant’s Counsel**

Applicant’s Counsel argues that the matter falls squarely within the jurisdiction of this court in its ordinary civil jurisdiction. He submits that the Applicant is seeking to be declared the rightful heir to the estate of the late Moseme Ranthako, and this is, therefore, not a dispute based on land.

1. **1st Respondent’s Counsel**

1st Respondent avers, on the other hand, that this is a land dispute because the subject matter revolves around residential plot **No. 13291 - 252** situate at Upper Thamae, Maseru. He submits that the 1st Respondent being the eldest surviving child in the house of Moseme Ranthako is entitled to the said plot. He indicated that this is the only estate available, and it being a piece of land, the matter belongs to the Land Court.

**Analysis**

Applicant’s prayers are couched thus:

1. To be declared the rightful heir to the estate of the late Moseme Ranthako;

b) To declare the meeting held on 13th October, 2019 by the 2nd, 3rd, 4th and 5th Respondents appointing the 1st Respondent as an heir to the estate of the late Moseme Ranthako null and void.

There is a distinction between a pure land dispute and one involving heirship over an estate that also includes land. In ***Lepholisa v Lepholisa[[1]](#footnote-1)*** my sister Mahase J. sitting in the Land Court pointed out that the Land Court:

***... does not … have jurisdiction to deal with disputes relating to claims based on inheritance and or succession; nor can it deal with matters regarding a declarator based on heirship. Such issues can be adjudicated upon by the High Court exercising its normal jurisdiction.***

The prayers sought by the Applicant are by nature declaratory. The fact that the estate also comprises a piece of land (residential plot **No. 13291 - 252** situate at Ha Thamae, Maseru) does not render the matter a land matter. Applicant’s prayers relate to heirship and succession.

The jurisdiction of this court not having been ousted, the other points in *limine* will be dealt with together with the merits.

**ORDER**

The court, therefore, orders that;

1. The point in *limine* in respect of jurisdiction raised by the 1st Applicant is dismissed;
2. Parties are ordered to obtain fresh dates to facilitate the disposition of the matter;
3. There is no order as to costs.

**F.M KHABO**

**JUDGE**

For the Applicant ; Adv., G. Lejakane

For the 1st Respondent : Adv., Mosuoe

1. LC/APN/12/2012 at para 16 [↑](#footnote-ref-1)