

IN THE HIGH COURT OF LESOTHO

**HELD
CIV/APN/291/2020**

AT

MASERU

In the matter between:

RAMASELI RANTHAKO

APPLICANT

and

SELLOANE RANTHAKO

1st RESPONDENT

**EMISANG RANTHAKO
RESPONDENT**

2nd

**ˆMATIEHO RANTHAKO
RESPONDENT**

3rd

ˆMAMOTHOBI RANTHAKO

4th RESPONDENT

ˆMATUMELO 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

a) 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.

b) 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:

- a) 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 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

¹ LC/APN/12/2012 at para 16

For the Applicant ; Adv., G. Lejakane

For the 1st Respondent : Adv., Mosuoe