

IN THE HIGH COURT OF SWAZILAND

CIV. CASE NO. 1737/98

IN THE MATTER BETWEEN

NOMSA NDLOVU

APPLICANT

VS

DORIS MARTHA KHESWA AND ANOTHER

1st RESPONDENT

THE MASTER OF THE HIGH COURT

2nd RESPONDENT

CORAM

S.B. MAPHALALA - J

FOR APPLICANT

MISS DLAMINI

FOR RESPONDENT

MR LITTLER

RULING

(12/08/98)

The applicant in this matter has made as application to file a supplementary affidavit after it has filed its replying affidavit. That is done in terms of Rule 6 (13) of the High Court Rules. Miss Dlamini submitted that there will be no prejudice occasioned to the respondent and further that will assist the court to arrive at a fair and just decision in this case. To this effect she referred the court to the case of Millin No vs Fabric House (PTY) LTD 1957 (3) S.A. 63 at twee 65 A

Mr. Littler for the respondent opposes this application as it was stated before that there is a dispute of fact in this matter which is well known to the applicant for her to commence by way of motion instead of action. He directed the court to a letter dated the 20 November 1997 from applicant attorneys attached to applicant's papers which acknowledges this fact. That the applicant is trying to build her case as we go along by introducing this supplementary affidavit to the prejudice of his client.

I have considered the arguments before me and I am of the considered opinion that there would not be any prejudice to the respondent in admitting the supplementary affidavit.

Attention was drawn to me by Miss Dlamini that applicant heard of her daughter's suspension from school after she had signed the founding affidavit. That is the only matter that is sought to be introduced and it is my view that it is pertinent to the fair and just decision of the court if the court is made privy to it. I thus allow the supplementary affidavit to form part of the papers before court.

S.B. MAPHALALA

JUDGE