

IN THE HIGH COURT OF SWAZILAND

Phangothi Investments (PTY) LTD

V

Johannes Mattheus Strauss

Civ. Case No. 1476/99

Coram S.B. Maphalala J

For the Applicant Mr. T. Simelane

For the Respondent Mr S. C. Dlamini

JUDGEMENT

(10/08/99)

Maphalala J:

Before court is an urgent application for an order staying the execution of a judgement in favour of the respondent pending appeal. The application is supported by the founding affidavit of the director of the applicant and other supporting affidavits and annexure pertinent to this case. An interim order is being sought at this stage. Respondent has filed a notice of intention to oppose.

The court heard submissions in this matter on the 5th August, 1999 where Mr Dlamini for the respondent did not file opposing papers but argued from the bar and was of the view that the application can be dismissed on the basis of his arguments which I am not going to repeat for the sake of brevity. On considering the arguments for and against the grant of this order I came to the conclusion that I cannot dismiss this application on the basis of the arguments presented by Mr. Dlamini as in some cases Mr. Dlamini gave evidence from the bar and wanted the court to consider that, for example there seem to be some dispute as to whether the postponement was argued before the learned Chief Justice and the circumstances he confirmed the rule which was in place in favour of the respondent. My view is that for the just and equitable determination of this case all pertinent affidavits should be filed and the matter thoroughly argued as it seem to me that it has quite a chequered history so that all issues are fully ventilated.

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In the premise, I rule that parties are to file the requisite papers and the matter fully argued as a matter of urgency. In the meantime an interim order is to issue in favour of the applicant.

S. B. MAPRALALA J