

IN THE HIGH COURT OF SWAZILAND

In the matter between

SETH SIMOEN MHLANGA

PLAINTIFF

And

CITY COUNCIL OF MBABANE

DEFENDANT

Coram

S.B. MAPHALALA – J

For Plaintiff

M.C. MAVUSO

For Defendant

MR. MATSEBULA

JUDGEMENT

(09/04/99)

Maphalala J:

This is an application brought by plaintiff/applicant for special leave to institute legal action against the defendant/respondent. The defendant raised a point in limine that the service of the plaintiff/applicant summons on the defendant is fatally defective in that same was clearly not served on the town clerk as required by the provisions of Section 119 of the Urban Government Act of 1969 and must be dismissed with costs.

Mr. Mavuso for the plaintiff/ applicants concedes the point raised but submitted that there would no t be any prejudice on the defendant/respondent if granted special leave and the matter argued on the merits. Mr. Matsebula for the other side submitted that they are inclined to accend to plaintiff/applicant's application.

In view of the foregoing I grant plaintiff/applicant special leave as prayed for in their notice of set down dated the 5th February 1999, thus the matter proceeds on the merits.

Costs to be costs in the cause.

S. B. MAPHALALA JUDGE