

THE HIGH COURT OF SWAZILAND

CIV. CASE NO. 2367/2000

In the matter between

MASTER OF THE HIGH COURT

APPLICANT

And SIBONISO CLEMENT DLAMINI

RESPONDENT

Coram

S.B. MAPHALALA - J

For the Applicant

MR. MKHATSHWA

For the Respondent

MR. S. DLAMINI

RULING

(22/02/2002)

In this matter Mr. Mkhathswa purports to appear for the Attorney General who is on record the legal representative of the applicant in this matter. He moved an application from the bar that the applicant be granted leave to file a replying affidavit arguing that in other courts that is a procedure which is followed. I must say on the onset I was not convinced with this argument, as an applicant is entitled to file a replying affidavit in motion proceedings as a matter of course. Leave to file a replying affidavit only arise in opposed applications for summary judgments after respondent has filed an affidavit resisting summary judgment. It would have been understandable if he were applying for condonation for the late filing of a replying affidavit.

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Further, it would appear that Mr. Mkhathswa has no *loci standi* to represent the applicant in this matter and I agree in toto with the submissions made by Mr. Dlamini for the respondent in this regard. Rule 16 (1) is perfectly clear what the procedure is in such instances. The Rule provides as follows:

"16 (1) if an attorney acts on behalf of any party in any proceedings, he shall notify all other parties of his name and address".

In casu, Mr Mkhathswa proceeded roughshod, as it were, without filing a proper notice of appointment in terms of the afore-mentioned Rule.

In the result, the matter is struck off the roll with costs.

S.B. MAPHALALA

JUDGE