

THE HIGH COURT OF SWAZILAND

EBERHARDT MARTIN CC

Plaintiff

And

MRS YVONNE NISSIOTIS

Defendant

Civil Case No. 3198/2001

Coram

S.B. MAPHALALA – J

For the Plaintiff

MR. B. MAGAGULA

For the Defendant

MR. P. DUNSEITH

RULING ON COSTS

(20/02/2004)

Before court is an enquiry in terms of Rule 45 13 (i) of the High Court Rules. When the matter was called Mr. Dunseith made an application that this case be consolidated with Case No. 221/2002 where the Defendant also features. The motivation behind the application was that the matters are substantially the same and this would curtail the proceedings.

Mr. Magagula opposed the consolidation of these issues and I agreed with him in this regard. I ruled that the cases be determined separately. As a result Mr. Dunseith had

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to apply for a postponement to a future date. Mr, Magagula did not oppose the application per se but applied for wasted costs of that day.

I reserve my ruling on costs. Following is my judgment on costs.

According to Herbstein et al, The Civil Practice of the Supreme Court of South Africa, (4th ed) at page 703 in fin 704 "the award of costs is a matter wholly within the discretion of the court. But this is a judicial discretion and must be exercised on grounds upon which a reasonable man could have come to the conclusion arrived at".

From the facts of this case my considered view is that it would be fair and equitable that costs be costs in the course, and it is so ordered,

S.B,MAPHALALA

JUDGE