

THE HIGH COURT OF SWAZILAND

PRETORIA DISTRIBUTORS CC

Plaintiff

And

MOOIHOEK STORE

Defendant

Civil Case No. 2600/2004

Coram: S.B. MAPHALALA - J

For the Plaintiff.: MR. B. MAGAGUL A

For the Defendant: N ABSENTIA

RULING

(On notice of withdrawal by attorney of record) (7th October 2005)

[1] In this case the Applicant has filed an application for summary judgement for hearing on the 20th May 2005, at 9.30am or soon thereafter as the matter may be heard for an order in terms of prayers 1 to 1.4 of the application. The Defendant has been represented by attorneys Maphalala & Company who have filed a Notice of Withdrawal as attorneys of record a day prior to the hearing of the application on 20th May 2005. When the

matter was called Counsel for the Plaintiff insisted in taking an order in terms of the application for summary judgment, contending that the withdrawal of Defendant's attorneys was a ploy to avoid judgment against it.

[2] The issue for determination therefore is whether Plaintiff is entitled to judgment despite attorneys for Defendant having withdrawn as attorneys of record. Without further ado, however it appears to me that the Defendant would be entitled to appoint another attorney within the time prescribed by the rules of this court. Therefore the Plaintiff cannot take judgment before the expiry of the stipulated 10 days in Rule 16 (4) which provides the following:

"(a) Where an attorney acting in any proceedings for a party ceases so to act, he shall, forthwith deliver notice thereof to such party, the Registrar and all other parties: provided that notice to the party for whom he acted may be given by registered post.

(b) After such notice, unless the party formerly represented within ten days after the notice, himself notifies all other parties of a new address for service as required under Sub-Rule (2), it shall not be necessary to serve any documents upon such party unless the court otherwise orders.

[3] In the result, for the afore-going reasons Defendant is entitled to appoint a new address as required by the above-cited Rule. No order as to costs is made.

S.B MAPHALALA

_JUDGE