

HIGH COURT OF SWAZILAND

CIVIL CASE NO. 14/2005

In the matter between:

LINDIWE RUTH MNISI (nee DLAMINI) PLAINTIFF

VS

CHRIS NQOBIZITHA MNISI DEFENDANT

CORAM

MATSEBU LA J

APPLICATION IN TERMS OF RULE 43 OF THE RULES OF COURT

13th MARCH 2005

There is presently pending before court a divorce proceedings action between the plaintiff and the defendant. Plaintiff has moved an application in terms of the above-cited Rule:

1. a maintenance ***pendente lite*** in the amount¹ of E5 000 00 (five thousand Emalangeni) per month.
2. contribution towards costs in the sum of E4 500.00.

Plaintiff avers in her sworn affidavit that defendant earns in excess of E14 000.00 per month and that defendant deserted her in April 2000 and then sold the matrimonial property and never accounted to her of the amount realised from such a sale. Plaintiff

alleges that the house sold by the defendant which is in 469 Dobson Road in the urban

area Mbabane could be valued in excess of E360 000 00. In response to applicant's sworn affidavit in support of the application in terms of Rule 43 of the Rules to Court, defendant has gone into details challenging the contents of the plaintiffs affidavit. Defendant even challenges that the plaintiff earns as little as E 1 200.00 per month and states that plaintiff should have annexed some documentary proof of this amount. In support of how much he, defendant earns he has annexed a documentary evidence which indicates that he earns E9 040.00.

It is unfortunate that both the plaintiff and the defendant have not been candid with the Court in so far as what each do with their respective earnings and deductions. However, these matters of matrimonial regime are by their very nature, urgent. Court are very slow in allowing supplementary affidavit for the sake of clarification an order that the court makes in terms of Rule 43 is never final and definitive and parties can always approach the court for variation of such an order.

I have taken into account the deductions shown at page 22 of the book of pleadings which leaves a balance of E4 348 80. The other deductions which are not shown, the court doer not want to speculate. However, at the latest stage of the hearing, any party can always move an application, well substantiated application for an amended order.

After considering all the factors in this matter, the court makes the following interim order to be effective immediately:

(a) Maintenance pendente lite at the rate of E 1 500 00.

(b) Contribution towards costs in the sum of E550 00.

J. M. MATSEBULA

JUDGE