

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

Civil Case No. 2064/2006

ANGELO JOAQUIM CUSTODIA MESA

Applicant/

Intervening Party

In Re:

JEROME MAZIYA

Applicant

And

**THE COMMISSIONER OF POLICE THE
ATTORNEY GENERAL**

**1st Applicant 2nd
Applicant**

Coram

**For the Applicant/Intervening Party For the
1st Respondent For the 2nd Respondent**

**S.B. MAPHALALA - J
MR. S. DLAMINI MR. O.
NZIMA MR. V. KUNENE**

JUDGMENT

1st August 2007

[3] Now reverting to the examination of the points of law *in limine* starting with the issue of urgency that the application by the intervening party does not meet the rigours of Rule 6 925) (a) and (b) of the rules of this court. On the other hand the intervening party argues *au contraire* that urgency has been proved *in casu* to meet the stringent requirements of the above-cited rule. Having considered the facts of the matter I am satisfied that the requirements of the cited rule has been met and therefore this matter is heard on the basis of urgency. I say so because of what is averred by the intervening party at paragraph 13 and 15 of his founding affidavit at page 36 of the Book of Pleadings. For the sake of completeness I proceed to reproduce the said paragraphs as follows:

13. I also submit that the matter is urgent because of the motor vehicle by the 1st Respondent is also fraudulent hence I pray that this Honourable Court similarly discourages the said conduct by awarding me costs at the punitive scale against the 1st Respondent.

14. Given that I reside in the Republic of Mozambique, I find it extremely difficult to communicate with Swaziland authorities and traveling to Swaziland is extremely costs for me hence the inevitable delays in prosecuting my claim.

15. Such is the urgency under which this matter has had to be dealt with that there may be important omissions on my part I beg the leave of this Honourable Court to file such supplementary papers as may be necessary in due course.

[4] On the basis of what I have said above in paragraph [3] this point of law *in limine* cannot succeed.

[5] The second issue for decision is the argument *in limine* that Applicant is represented by the offices of Magongo and Associates who have not withdrawn their services as attorneys of record. However, when the matter came for argument Counsel for the intervening party called Mr. Magongo who confirmed before court that he has withdrawn as attorney of record for the intervening party and therefore this point of law *in limine* cannot succeed on the facts of the matter.

[6] Having considered the above-cited points *in limine* it now behooves me to now consider the order being sought by the intervening party. It appears to me that on the facts of the matter there is really no contest to an order in terms of prayer 1 of the intervening party being the Notice of set-down dated 25th July 2007.



S.B. MAPHALALA

JUDGE

[7] In the result, for the afore-going reasons the order is granted in terms of prayer 1 of the Notice of set-down dated 25th July 2007. Costs to be costs in the main application.