

**IN THE HIGH COURT OF SWAZILAND**

**HELD AT MBABANE**

**CASE NO. 294/08**

**In the matter between:**

**WILLIAM ANDREW BONHAM**

**Applicant**

**And**

**MASTER HARDWARE (PTY) LTD t/a**

**BUILD IT**

**1<sup>st</sup> Respondent**

**BHEKI MAVUSO N.O.**

**2<sup>nd</sup> Respondent**

**HELEN DU PONT**

**3<sup>rd</sup> Respondent**

***In re:***

**MASTER HARDWARE (PTY) LTD**

**And**

**Plaintiff**

**RYAN MOYES NEVIL**

**Defendant**

**J U D G M E N T**

**MASUKU J.**

[1] On 14 April, 2009, I issued a judgment in the above matter and adjourned the determination of the costs pending an opportunity being afforded the 2<sup>nd</sup> Respondent above and the 1<sup>st</sup> Respondent's attorneys of record, Messrs. Siphon Matse & Company, to show cause why they should not have an adverse order as to costs mulcted against them jointly and severally, the one paying the other to be absolved.

[2] The Court specifically ordered in paragraph 32.2 of the said judgment, that the above-named should show cause on or before 24 April, 2009, why they should not be so ordered to pay the costs of the application *de bonis propriis*. The said order was made in appreciation of the improper manner in which the vehicle in question in the said proceedings, which was sold in execution to the 3<sup>rd</sup> Respondent, was dealt with by both the Attorneys concerned and the Deputy Sheriff.

[3] This was because early after the said vehicle was laid under attachment, both the Attorneys and the Deputy Sheriff were advised that it did not belong to the judgment debtor but to the Applicant herein. That information notwithstanding, they proceeded with the sale in execution, having attached property that belonged to a third party and who had nothing at all to do with the judgment debt.

[4] On 13 April, 2009, I called up the file well after the period afforded the said parties to show cause as stated in the preceding paragraphs. I have perused the file and have found that neither the Attorneys nor the Deputy Sheriff have filed any document by which they attempted to show cause why an adverse order as to costs against them should not be entered.

[5] In view of that fact, I have nothing before me which precludes me from ordering costs *de bonis propriis* from being entered against the said parties. They have been afforded an opportunity to make submissions in that regard but they have not taken advantage thereof. I do not find that there is any cogent reason in the circumstances why I should not mulct the said parties with the adverse order as to costs as intimated.

[6] In view of the foregoing, I issue the following order:

6.1 The offices of Siphon Matse 8<sub>B</sub> Company and Bheki Mavuso be and are hereby ordered jointly and severally, the one paying the other to be absolved, to pay the costs of the

application *de bonis propriis* on the scale between party  
and party.

**DELIVERED IN OPEN COURT IN MBABANE ON THIS THE 14<sup>th</sup>  
DAY OF MAY, 2009.**

T.S. MASUKU

JUDGE