



IN THE HIGH COURT OF SWAZILAND

RULING

Case No: 926/2012

In the matter between:

MDUDUZI SIBANDZE

APPLICANT

VS

AFRICA TRANSACTION SOLUTION

1ST RESPONDENT

KIA MOTORS (PTY) LTD

2ND RESPONDENT

Neutral citation: *Mduduzi Sibandze vs Africa Transaction Solutions 926/2012 SZHC 217 (17th September 2012)*

Coram: **MAPHALALA PJ**

Heard: **7TH SEPTEMBER 2012**

Delivered: **17TH SEPTEMBER 2012**

Summary: *Application for summary judgment where Defendant's attorney has withdrawn. The court rules that in the interest of justice Defendant be afforded the opportunity to file its opposing papers. Summary judgment being an extra-ordinary remedy. Respondent to pay wasted costs of the postponement*

- [1] Before court is an Application for summary judgment which has come unopposed as there are no opposing papers filed of record. However, when the matter was called Mr. Khoza intimated that he appeared for the Respondent and sought that the matter be postponed to allow his client to file the requisite papers in opposition.
- [2] It was revealed further that Mr. Khoza had withdrawn as attorney of record for the Defendant. Then a tit for tat ensued as to the position of Mr. Khoza as he has withdrawn. Mr. Khoza urged the court to consider that summary judgment is an extraordinary remedy that in the interest of justice the court ought to allow the Respondent to file his case in accordance with the Rules of Court.
- [3] I have considered the pros and cons of the parties' arguments and I have come to the view that Respondent be given the opportunity to file his case in the interest of justice as summary judgment is an extraordinary remedy. Further, I rule that the Respondent pays wasted costs of the day.

STANLEY B. MAPHALALA
PRINCIPAL JUDGE

FOR THE APPLICANT : MR. M. DLAMINI

FOR THE RESPONDENT : MR. S. KHOZA