



IN THE HIGH COURT OF SWAZILAND

JUDGMENT

HELD AT MBABANE Case No.687/2019

In the matter between:

ELLIOT DLAMINI Applicant

And

ZENALA DLAMINI 1st Respondent

KADINABANTU UMPHAKATSI 2nd Respondent

ROYAL ESWATINI POLICE SERVICES 3rd Respondent

THE ATTORNEY GENERAL 4th Respondent

Neutral Citation: Elliot Dlamini v. Zenala Dlamini & 3 Others
(687/2019) [2019] SZHC 205

Coram : Magagula J

Date Heard : 19 June 2019

Delivered : 19 June 2019

[1] On the 22nd March 2019 and pursuant to an application filed and moved by the applicant before court, I granted an order in the following terms:

“ 1. The 1st respondent is hereby interdicted and restrained from proceeding with the burial of the deceased, Jabulani Hlongwane, at the homestead of the applicant situate at Tibovini area in the Shiselweni District;

2. The 2nd respondent is hereby directed to find an alternative burial place for the deceased within its area of jurisdiction.

3. The National Commissioner of the Royal Eswatini Police Services is hereby directed to ensure that this order is complied with.”

[2] The application had been brought under certificate of urgency. When the matter was called the applicant as well as the 2nd, 3rd and 4th respondents were represented by their legal counsel. There was no appearance for the 1st respondent. The order was granted by consent of the parties represented.

[3] On the 14th June 2019 the applicant again approached this court under certificate of urgency and seeking against the same respondents substantive orders in the following terms:

“ 2. An order declaring that the body of the deceased Jabulani Hlongwane be exhumed at applicant’s homestead at Tibovini area and be buried at an alternative burial place to be pointed out by the 2nd respondent as per the court order issued ...on the 22nd March 2019.

3. Ordering and directing the commissioner of police to assist in the exhumation of deceased body and assisting in the burial of the deceased on the alternative burial place.

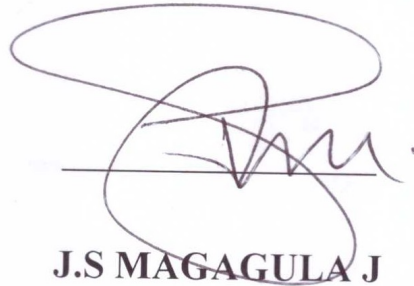
4. Granting an order compelling the 1st respondent to show cause why, on a date that is suitable to the court, she should not be committed into gaol for a period of 30 days for contempt of order of court....”

[4] When the matter was called the applicant as well as 2nd, 3rd and 4th respondents were represented. Mr N. Mamba who appeared for the respondents opposed the order sought contending that the orders sought were incompletent since the order granted by the court on the 22nd March, 2019 had not been served upon the respondents

I requested proof of service of the said order from Mr. Nhlengetfwa who appeared for the applicant and he failed to produce any such proof.

I accordingly issued an order in the following terms:

4.1 In the absence of proof of personal or any form of service of the order issued by this court on the 22nd March, 2019, the application dismissed.



J.S MAGAGULA J

For Applicant : S. Nhlengetfwa

For 2nd - 4th Respondents : N. Mamba