

IN THE INDUSTRIAL COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 334/07

OSCAR SIBANDZE	First intervening party/ Second Applicant
PHINDANGENE MNDZEBELE	Second intervening party/ Third Applicant
BONGANE MAVUSO	Third intervening party/ Fourth Applicant
ROSE MAMBA	Fourth intervening party/ Fifth Applicant
SARAH ZIYANE	Fifth intervening party/ Sixth Applicant
CLEMENTINE MTSETFWA	Sixth intervening party/ Seventh Applicant

In the matter between:

SIPHO MAMBA	Applicant
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And

THE SWAZILAND MANUFACTURING AND ALLIED WORKERS UNION	1 st Respondent
ALEX FAKUDZE N.O.	2 nd Respondent
DELSILE ZONDO N.O	3 rd Respondent
SHADRACK MASUKU N.O.	4 th Respondent
JABU SHONGWE N.O.	5 th Respondent
<u>ROSE MAGAGULA N.O.</u>	6 th Respondent
SABELO MSIMANGO N.O.	7 th Respondent

SIPHO MANANA N.O.

8th Respondent

CORAM;

NKOSINATHINKONYANE

:

JUDGE

DAN MANGO

:

MEMBER

GILBERT NDZINISA

:

MEMBER

FOR INTERVENING APPLICANTS :

B. FAKUDZE

FOR APPLICANT

:

V. DLAMINI

FOR RESPONDENTS

:

C.Z. DLAMINI

RULING 15.08.07

[1] This is an application to intervene in the main application before this court in the matter of **SIPHO MAMBA V. THE SWAZILAND MANUFACTURING AND ALLIED WORKERS UNION & SEVEN OTHERS.**

[2] The application is not opposed by the applicant in the main action Mr. Siphon Mamba, but it is opposed by the respondents.

[3] It is easy to understand why Mr. Mamba does not oppose the application to intervene. The intervening applicants are part of the group that is on his side in the turmoil that is presently going within the Union executive.

[4] The position of the law relating to joinder is settled. A third party is entitled to demand to be joined in proceedings if he has a direct and substantial interest.

[5] **HERBSTEIN AND VAN WINSSEN : "THE CIVIL PRACTICE OF THE SUPREME COURT OF SOUTH AFRICA" (1994) 4th edition at**

pages 165-19 Ideal with the subjects of joinder and intervention. At page 172 they state that:

"A direct and substantial interest has been held to be an interest in the right which is the subject matter of the litigation.... It is a legal interest in the subject matter of the litigation, excluding an indirect commercial interest only."

[6] The subject matter of the main application before the court is the suspension of Mr. Mamba. The intervening applicants have an interest in the matter because they are members of the same Union and they are also on his side as the tensions in the Union have split the executive into two factions. That, however, is not a direct and substantial interest entitling them to be joined in these proceedings.

[7] There is no doubt that the intervening applicants want Mr. Mamba to succeed in his application. However, the fact that they wish that Mr. Mamba should succeed in the application before the court, does not give them the legal right to intervene. They have no legal interest in the judgement that the court will give. There are no considerations of equity or convenience in the administration of justice that necessitate that they should be joined.

[8] Taking into account all the above observations and all the circumstances of the case, the application will be dismissed with costs. That is the order that the court makes.

The members agree.

NKOSINATHI NKONYANE
JUDGE - INDUSTRIAL COURT