

IN THE HIGH COURT OF SWAZILAND

Civ. Case No. 1909/96

In the matter between:

The Methodist Church of Southern Africa Plaintiff

vs

Douglas H.B. Sithole and 33 others Defendant

CORAM S.W. SAPIRE, ACJ

FOR THE PLAINTIFF Mr. C. Ntiwane

Mr. Mavuso

FOR THE DEFENDANT Mr. B. Simelane

JUDGMENT

(06/11/96)

This application relates to a church dispute. It is unfortunate that matters of this nature come before the court at all. The church, one expects, is where those who are together will pray together.

Congregants should settle their differences without resorting to wasteful litigation.

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The relief originally claimed was to interdict and restrain the 33 respondents individually and collectively from disrupting church services and or interfering in the conduct of the church services in any manner whatsoever. A rule nisi issued.

In response to this the respondents came to court and sought relief by way of a counter application. In this counter application the respondents sought an order that the church be interdicted and restrained from preventing the applicants and respondents from attending church meetings and sendees and that the respondent be ordered to postpone a circuit quarterly meeting to be held at Pigg's Peak to be held on the 17th of August 1996.

All the substantive matters in this application seem to have lost their immediate urgency and I understood when the matter was heard that the congregants had somehow or other found their way to pray together and to administer the church in an orderly manner.

There was however a point taken and that was that the applicant was wrongly cited. In terms of the constitution of the church it would appear that litigation should be brought in the name of the Bishop. It was said therefore that the applicant was incorrectly cited & not before court. The respondents sought an order dismissing the application with costs. Taxing and interesting questions arise on this issue but it does not seem to me that coming to decision thereon is going to further the interests of the church and its congregation. I have therefore decided that at this stage no order will be made on the application to dismiss the application. This does of course not dispose of the whole application because there are extended rales pending.

The purpose of the existing rules eludes me . The rules granted on the claim and counter-claim will therefore be discharged , Either party is entitled on proper notice to the other to set the matter down for hearing as to costs.

S.W. SAPIRE

ACTING CHIEF JUSTICE