REPORTABLE

CASE NO: SA 38/2014

IN THE SUPREME COURT OF NAMIBIA

In the matter between:

TM-S	**Appellant**
and	
NAMIBIA ESTATES AGENTS BOARD	**First Respondent**
PHELEM MANYANDO LIKE	**Second Respondent**

Coram: SHIVUTE CJ, DAMASEB DCJ and CHOMBA AJA

Heard: **15 June 2016**

Delivered: **29 September 2016**

APPEAL JUDGMENT

DAMASEB DCJ (SHIVUTE CJ and CHOMBA AJA concurring):

Introduction

[1] The present appeal is before this court with the leave of the Labour Court. It is an appeal by the appellant against the judgment and order of the Labour Court granting costs *de bonis propiis* against her, an arbitrator appointed to conduct conciliation and arbitration under s 86 of the Labour Act 11 of 2007 (the Act). I shall hereafter refer to the appellant as 'TM-S'. For reasons that are not necessary to state, the second respondent's counsel, Mr Rukoro, conceded when the appeal was called that his client was not entitled to

participate in the appeal and his case is therefore not dealt with in this judgment. The second respondent was legally aided and the appellant's counsel did not seek wasted costs against him.

[2] The costs order which is the subject of this appeal was granted against TM-S arising from the performance of her functions as an arbitrator. Under the Act, an arbitrator is shielded both from a costs order in a personal capacity (s 118) and personal civil liability (s 134).

[3] Section 118 of the Labour Act reads as follows:

> 'Despite any other law in any proceeding before it, the Labour Court must not make an order for costs against a party unless that party has acted in a frivolous or vexatious manner by instituting, proceeding with or defending those proceedings'.

[4] The jurisdictional facts for the invocation of s 118 therefore are that:

(a) you must be a party to a proceeding;

(b) you must either have (i) instituted proceedings, (ii) proceeded with it when you should not have or (iii) defended it when you should not have.

[5] On its part, s 134 grants immunity to an arbitrator from 'any personal civil liability if, acting in terms of any provision of this Act, they did something, or failed to do something, in good faith or in the performance of their functions in terms of this Act . . . .'

[6] Quite clearly, ss 118 and 134 deal with different subject matters and are not to be confused. Section 118 allows a court to make an order of costs against a litigant in labour disputes bearing in mind that costs are ordinarily not awarded in such proceedings. Section 134 protects a functionary under the Act from civil liability – a protective shield which is only lost if it is pleaded and established on evidence that the functionary acted *mala fide* or not in the performance of his or her functions as arbitrator. I shall presently set out the proper approach to s 134.

The context

[7] The relevant events occurred after TM-S had presided over an arbitration involving the second respondent (Mr Like). After being dismissed by the first respondent, Mr Like referred a dispute of unfair dismissal to the Labour Commissioner against the first respondent. TM-S conducted the arbitration and reserved her award. In the intervening period, TM-S was accused by the legal representative of Mr Like of encouraging them, without the knowledge of the first respondent's legal practitioner, to supplement what appeared to be a defective case.

[8] Mr Like's lawyer asked that TM-S reconvene the arbitration so she could be asked to recuse herself on account of her alleged attempt to favour Mr Like. TM-S neither recused herself nor reconvened the hearing. She proceeded to hand down an award in favour of Mr Like. The first respondent appealed to the Labour Court against the award on the ground that it was based on evidence obtained by TM-S from Mr Like after the hearing, without the knowledge of the first respondent.

[9] The notice of appeal is dated 25 July 2012 and it is common cause that TM-S was not cited as a party in it.

[10] The first respondent's grounds of appeal against the award were: (a) that it was denied a fair hearing as contemplated in Article 12 of the Constitution in that TM-S admitted further evidence after the hearing was concluded, (b) that TM-S conducted herself in a biased manner, alternatively failed to recuse herself when her conduct was challenged with a serious allegation involving an irregularity offensive to the *nemo-judex in causa sua* principle.

[11] In a nutshell, in the appeal the court was called upon to determine the propriety and regularity of TM-S's conduct in the manner she conducted the arbitration proceedings.

[12] Simultaneously with the appeal, the first respondent filed a review application on 26 July 2012, alleging that TM-S had committed gross misconduct by making entreaties to Mr Like to the potential detriment of the respondent. The allegations were founded on the accusation Mr Like's lawyer made about TM-S.

[13] Mr Like's lawyer did not file a confirmatory affidavit in that review to corroborate the allegations. It is not surprising, therefore, that TM-S did not oppose the review at the time it was filed.

[14] In the review application, the first respondent sought an order to review and set aside the award granted by TM-S in favour of Mr Like on the ground that TM-S improperly received Mr Like's evidence after the hearing, and making solicitations to Mr Like to do so.

The appeal against the arbitrator's award allowed

[15] On 21 July 2013, the first respondent moved the appeal culminating in relief being granted in the following terms:

> '1. The appeal is upheld;
>
> 2. The arbitration award made by [TM-S] on 9 July 2012, is hereby set aside;
>
> 3. The conduct of [TM-S] in this matter is referred to the Honourable Minister of Labour and Social Services and the Labour Commissioner for investigation and further action, if necessary.'

[16] Immediately after the above order was granted, the first respondent's legal practitioner directed a letter to TM-S in the following terms:

> 'We refer to the above matter and confirm that we act herein on instructions of the Namibia Estate Agents Board ('our client').
>
> As you are aware, a review application as well as an appeal was lodged by our client against the award made by you on 9 July 2012, in the arbitration hearing between the abovementioned parties under the case number CRWK 974-11.

> I wish to advise that the appeal was heard on 21 July 2013 and the Honourable Judge Geier [allowed the appeal, set aside the award you made and referred your conduct to the Minister of Labour and the Labour Commissioner].
>
> In light of the above, we have been instructed by our client to also proceed with the review application under the case number LC103/2012 and to amend our notice of motion to include a prayer for costs against you in your personal capacity *de bonis propiis* as arbitrator, on a scale as between attorney and client.
>
> With the above being said, kindly find attached hereto a copy of the amended notice of motion. The amended portions are typed in bold italics. I confirm that a copy of same will also be served on your offices in due course.' (My underlining for emphasis).

[17] I pause at once to make the point that, contrary to counsel for the first respondent's suggestion to the contrary during argument, this letter makes it very clear that the amendment of the notice of motion to seek costs against TM-S was based on the outcome of the appeal. It also demonstrates that when the appeal was disposed of there was no live issue between the first respondent and TM-S on the issue of costs.

[18] An even more important circumstance is that no suggestion is made in the letter that TM-S need not oppose it and that it will only be proceeded with if she did. This comment needs to be made at this early stage for a proper understanding of the argument made by the first respondent during oral argument in this court that the reason costs were sought and awarded against TM-S, was only because she opposed the review application.

[19] The first respondent's legal practitioner's letter was answered by the Government Attorney on behalf of TM-S. The Government Attorney warned that proceeding with the

review would be incompetent as the appeal had determined the issue which could be dealt with in such review. The government attorney took the view that in the wake of the order made in the appeal the matter had become *res judicata*.

[20] That view was however not shared by the first respondent who proceeded to amend the notice of motion in the review to include an order seeking costs *de bonis propriis* against TM-S. The relief sought in the amended notice of motion was (a) the original one to review and set aside the second respondent's award, and (b) the one introduced by way of amendment that TM-S be 'ordered to pay applicant's costs of the application *de bonis propriis* on a scale as between attorney and client'. The amended notice of motion was not supported by an affidavit. Why a costs order was being sought against TM-S was therefore not supported by any evidence.

[21] It was only after the amended notice of motion was served on her that TM-S entered notice to oppose and filed an opposing affidavit. In *limine* she stated that:

(a) the matter was res judicata;

(b) the manner in which she defended the review was not frivolous and vexatious; and

(c) the amended notice of motion was not supported by an affidavit as required by rule 14(3)[1] of the Rules of the Labour Court.

[1] 'An application must be brought on notice of motion supported by an affidavit setting out the grounds and the facts and the circumstances on which the applicant relies to have the proceedings or decision reviewed and corrected and set aside.'

[22] She went on to add that the first respondent's pursuit of relief under a moot review was frivolous and vexatious and disclosed 'ulterior motives' and that she would pray for costs under s 118 of the Act.

[23] In her answering affidavit, TM-S is at pains to point out that she only opposed the review on account of the amendment seeking costs against her. As regards the merits, she states that 'any failure' on her part to deal with any 'specific allegation in the founding affidavit' is not to be construed as an admission 'but as a denial'.

[24] The parties then proceeded to a hearing before the same judge who made the order in the appeal.

Judgment of the Labour Court in the review

[25] The court *a quo* stated that once the award was set aside in the appeal, there was nothing to set aside in the review. It observed that the only remaining issue between the parties in the review was the issue of costs. According to the Labour Court, TM-S ‘had clearly been appraised of this fact through the correspondence’. Although the court was emphatic that the ‘remaining issue . . . of the review . . . had already become moot’, it went on to consider whether TM-S’s conduct was frivolous or vexatious and whether she lost the protection afforded by ss 118 and 134 of the Act. According to the learned judge below, these ‘legal questions’ were not determined in the appeal and were open to be determined in the review. (It is not clear to me at what stage and by what pleading TM-S’s liability under s 134 became a ‘legal issue’ which was unresolved).

[26] The court a *quo* reasoned that in the light of the relief for costs sought in the amended notice of motion, and the fact that TM-S 'actively opposed' that relief, it had to consider whether, *qua* arbitrator, TM-S forfeited protection from civil liability afforded by s 134 of the Act, and whether her conduct in opposing the adverse costs order sought against her was 'vexatious' or 'frivolous' within the meaning of s 118 of the Act.

[27] According to the Labour Court, in her opposing affidavit TM-S did not dispute that after the closure of both parties' cases during the arbitration proceedings, she accepted further documentation of which the first respondent was unaware and in respect of which it was not given the opportunity to be heard before the award was handed down. (In parenthesis, this consideration was known from the onset and I find no explanation on the record why it was not relied on from the beginning to seek the costs order which was later sought. As will be recalled, the review application was lodged only a day after the appeal.)

[28] The Labour Court found that the 'undisputed conduct' disclosed bias on the part of TM-S in favour of Mr Like. The court held that: (a) the 'bias constituted a valid basis for the granting of a *de bonis propriis* costs order; (b) that the bias also constituted a valid basis for finding that TM-S's actions in the performance of her functions as arbitrator was not 'in good faith'; (c) that a finding of bias removed from TM-S the shield of immunity conferred by s 134 of the Act; (d) that the word 'frivolous', as used in s 118 of the Act, encompassed a situation where proceedings in the Labour Court are opposed 'without sufficient ground'; (e) that given TM-S's failure to deny material allegations in her answering papers, she had not disclosed such 'sufficient grounds' (and that the TM-S's

opposition to the adverse costs order was accordingly deemed 'frivolous' within the meaning of s 118 of the Act); (f) that TM-S's conduct in the arbitration and her frivolous opposition to costs in the review formed a valid basis for the award of costs against her *de bonis propriis*.

[29] The result was that TM-S was ordered to pay the first respondent's costs in the review *de bonis propriis* on a scale as between attorney and client.

TM-S's grounds of appeal in this court

Leave to appeal

[30] TM-S raised the following main grounds of appeal in her application for leave to appeal:

> (a) The learned judge misdirected himself in law in finding that it was competent for the court to hear and dispose of a review application, after the appeal in the same matter had previously been heard and determined;
>
> (b) The learned judge misdirected himself in law and committed a gross irregularity when he sought to and in fact determined the question of costs in proceedings other than the proceedings in which the issues on the merits were determined;
>
> (c) The learned judge misdirected himself in finding that the opposition to the order of costs in the review was frivolous and vexatious, in view of the principle

that once an appeal on the merits is heard, a review in the same matter is not competent and falls away;

(d) The learned judge misdirected himself in finding that she acted *mala fide*, in allowing additional documents to be submitted for purposes of determining the quantum of damages to be awarded to Mr Like;

(e) The learned judge erred in law and on the facts in his finding that the applicant forfeited the protection afforded her under s 134.

(f) The learned judge erred in law and on the facts in his conclusion that this was an appropriate case for award of costs *de bonis propriis* in terms of s 118.

The notice of appeal

[31] The notice to appeal states that it is directed at the part of the judgment and order of the Labour Court granting costs.

Court order granting leave to appeal

[32] The Labour Court granted TM-S leave to appeal to the Supreme Court 'having read the application for leave to appeal and the other documents filed of record'. It is apparent therefore that leave to appeal was granted on the strength of the application for leave.

The first respondent's objections in limine

[33] The first respondent in *limine* submitted that (a) the appeal was not properly before court in that the notice of appeal was not filed as part of the record and (b) that TM-S was pursuing appeal grounds not forming part of the leave to appeal. It is common cause that the first respondent's counsel attached the application for leave to appeal to his heads of argument.

[34] In light of the first respondent having attached the application for leave to appeal to its heads of argument, we consider that it had not suffered prejudice and the court was not inconvenienced. As regards the grounds of appeal, the court order granting leave to appeal is part of the record and must be read together with the application for leave and the notice to appeal. It becomes apparent therefrom that TM-S seeks to impugn (a) the review application being entertained when it was moot and (b) that it was incompetent for the court a *quo* to grant an adverse costs order against TM-S in terms of ss 118 and 134. The first respondent's in *limine* objections therefore have no merit.

TM-S's key submission on appeal

[35] Mr Hinda, who argued the appeal on behalf of TM-S, assisted by Mr Narib, made it clear that he was not in any way justifying or defending the conduct attributed to her but pleads for the principle: that it was not competent for the first respondent to pursue a review that had become moot and to seek costs on its strength.

The first respondent's submission on the merits

[36] According to Mr Dicks for the first respondent, the costs were awarded against TM-S on the admitted and common cause fact that she had received documents after the hearing. He argued that whether such conduct by TM-S as arbitrator was frivolous or vexatious, and whether she had lost the protection afforded under ss 118 and 134 of the Act, were legal questions which were not determined in the appeal.

[37] According to Mr Dicks, the jurisdictional basis for the award of costs in the present case is TM-S's election to oppose the order seeking costs and not her undisputed conduct. The latter, as I understand it, is only relevant in so far as - given its alleged non-denial by TM-S – it made it frivolous and vexatious for TM-S to oppose the prayer for costs.

The law

Costs orders are ancillary to main relief

[38] The jurisdictional basis for a costs order is that the court being asked to order it must be seized with the merits of the matter. In other words, the judge who orders costs must have cognisance of the principal cause: *Van Gorkom & Nooman v Davies* 1914 TPD 572 at 575. An order for costs is not a stand-alone relief and is ancillary or consequential in nature: *Simon v Air Operations of Europe AB* 1999 (1) SA 217 (SCA) 231B-C. The learned authors of Herbstein & Van Winsen's *Civil Practice of the High Courts and the Supreme Courts of South Africa (2009)* Juta suggest (at 960) that this proposition is not universally accepted and, amongst others, cite a South African High Court judgment (*First National Bank of Southern Africa Ltd t/a Wesbank v First East Cape Financing (Pty) Ltd*

1999 (4) SA 1073 (SE)) in which a party was allowed to set down a matter to seek pre-litigation costs, which was granted, for the trouble of coming to court even after the main issue between the parties had fallen away.

[39] I do not propose to consider at this time whether that case should be followed by our courts, except to point out that it involved a case where the respondent was not by statute shielded against a costs order in the way TM-S was. Suffice it to say for now that the principle that costs are ancillary to main relief has been recognised under the common law for quite long to be brushed aside without careful consideration. See *Union Government v Gass* 1959 (4) SA 401 (A).

[40] Because of the now expressly stated basis on which costs are justified (ie that TM-S opposed the review when she should not have), the present case is in any event distinguishable from a case where costs are awarded against a party for its reprehensible conduct which induces the other to seek legal recourse.

Section 118 is to be invoked exceptionally

[41] In terms of s 118 of the Act, costs may only be granted exceptionally against a party who engages in litigation frivolously or vexatiously. It is not available against a party whose reprehensible conduct induced another to go to court for legal redress.

[42] Section 118 speaks to the imperative for the courts of the land not being saddled with disputes that have no merit. Seeking a costs order against an arbitrator who does not oppose litigation brought against him or her is, by definition, frivolous and vexatious.

The proper application of s 134

[43] As Hardy Ivamy states (E.R. Hardy Ivamy (1988) 10 ed. Mosley and Whiteley's Law Dictionary at page 81) to be 'civilly responsible' for any act or omission means to be liable in an action or other proceeding at the suit of another for a private wrong.

[44] Thus, in the South African case of *Road Accident Fund v Krawa* 2012 (2) SA 346 (ECG), a statutory provision[2] conferred a right to compensation for any loss or damage arising from the driving of a motor vehicle under certain circumstances. It was held (at 355 para 21) that '. . . the common-law principles applicable to damages, its existence and the assessment or determination of the extent thereof must equally apply to a claim for compensation in terms of the Act, save where it is expressly stated otherwise'.

[45] Similarly, a party wishing to rely on s 134 must set out the conduct of the arbitrator complained of. In addition, it must specify the circumstances that make such conduct wrongful under any basis constituting a cause of action cognisable under our law as giving rise to civil liability. The party must also plead the nature of the harm or loss that resulted from the wrongful conduct, specifying each head of loss suffered as a result of the alleged wrongful conduct. The party must then set out with sufficient particularity the facts and circumstances from which it can be inferred that the arbitrator did not act in good faith or not in the performance of his/her functions as under the Act.

[2] Road Accident Fund Act 56 of 1996, s 17(1)(*a*)

Statutory provisions must be pleaded

[46] A party who relies on a statutory provision must plead in sufficient particularity the facts entitling it to invoke the section. As Levy J put it in *Secretary for Finance v Esselmann* 1988 (1) SA (SWA) 594 at 598B-C:

> 'In as much as the purpose of particulars of claim is to inform the defendant and the court what the plaintiff's case is all about, where a plaintiff relies on a particular statute, it is advisable that he should refer in his particulars of claim to the section of the statute whereon he relies but far more important, inasmuch as he is obliged to plead the facts and not law, he must set out the facts which entitle him to invoke the particular statutory provision.' (My underlining).

Analysis

[47] The stark reality in the present case is that a party who did not desire to litigate was perforce placed in a situation where she had to represent her legal interests as everyone is entitled to do under our Constitution. It is not the case of a person who entered appearance to oppose when the substantive relief was lodged. She did so in circumstances where that substantive relief was no longer an issue between the parties but the opponent chose to drag her to court to seek an order which, it now concedes on appeal, was not competent absent any opposition by her.

[48] The opposition by TM-S to the review was therefore conduct brought about by the action of the first respondent. In other words, TM-S's opposition was the result of the first respondent instituting proceedings which had no prospect of success unless opposed by TM-S. Therefore if anyone was guilty of frivolous and vexatious conduct in the present case, it was the first respondent.

[49] It is apparent to me that the first respondent had clearly misconceived the purport of s 118 in amending the notice of motion to include the costs order. It laboured under the belief that it was entitled to come to court to seek a costs order regardless of whether or not TM-S opposed it. I say so because nowhere does one find on the record that TM-S was put on notice that she ran the risk of being mulcted with a punitive costs order if she opposed and that if she did not oppose she faced no risk of being mulcted in costs.

[50] It becomes even more apparent from the first respondent's written heads of argument in the court below that the first respondent had wanted costs against TM-S irrespective of whether or not she opposed the review. In those heads of argument, reliance is placed on the letter of Messrs Köpplinger Boltman Legal Practitioners reminding TM-S that the review having become moot the 'only outstanding issue is that of costs'. (Now how could that be if at that stage TM-S had not opposed the review?). To answer her protest that the review, including the costs had become moot in view of the success in the appeal, TM-S is again reminded in the heads that the 'issue of <u>costs incurred pursuant to the review</u>' had not yet been determined and therefore was not moot. The argument goes on to state that it was TM-S's 'conduct during the arbitration proceedings and her refusal to recuse herself [that] necessitated the application for review' and that the 'amended notice of motion . . . only alerts' her that a costs order will be sought against her and that therefore there was no need for a supporting affidavit.

[51] The written heads go on to state that TM-S's conduct in the arbitration 'constitutes gross irregularities' necessitating the review. It is in that context that the heads proceed

to invoke ss 134 and 118 of the Act. Crucially, the following arguments are then advanced:

> '[21] Had the second respondent not opposed these proceedings, it would not have been competent for this court to make a costs order against her. The second respondent did not oppose the merits of the review application and by necessary implication admitted her reprehensible conduct. She only started disputing the allegations made against her when the issue of costs arose. As pointed out above, the second respondent now opposes the current proceedings.
>
> [22] The second respondent's conduct was deplorable. It was not done in good faith in the performance of her functions in terms of the Act. Her opposition to the amended notice of motion under the circumstances is frivolous and vexatious. In the premises the applicant seeks a costs order against the second respondent *de bonis propriis* for the review application, which was necessitated by her conduct.'
> (My underlining for emphasis).

[52] It is apparent to me that the difficulty was only recognised when the matter was being prepared for argument. That difficulty was the ratio in *Commercial Investment Corporation (Pty) Ltd (CIC) v Namibia Food and Allied Workers Union & others* 2007 (2) NR 467 (HC) which the author of the letter referred to in para [16] of this judgment in all probability was not aware of.

[53] In applying a similarly worded s 20 of the Labour Act 6 of 1992, Heathcote AJ held in *CIC* (at 469, para 10) that the:

> '. . . Labour Court cannot give a costs order against a respondent in an unopposed matter, particularly in circumstances where the unlawful conduct had ceased by the time the matter was called in open court.'

[54] In answer to a question from the court, Mr Dicks submitted that if TM-S did not oppose the costs relief, it could not have been competent for any court to grant it and would have had to be withdrawn without being moved. It begs the question why the amendment was brought in the first place!

[55] The allegation that TM-S in her opposing affidavit failed to deal with the allegations of improper conduct is a red herring. That issue had become moot and did not require to be traversed.

Disposal

[56] There are compelling reasons why the result arrived at by the court *a quo* cannot be sustained. The court has a discretion under s 118 if any of the jurisdictional facts are established. That discretion is not properly exercised where the litigation being opposed was unnecessary and was instituted solely for the purpose of inducing the opponent to oppose so that it can be the trigger for the invocation of s 118.

[57] We are here faced with a situation that the jurisdiction of the court was engaged by the first respondent speculatively; that is to say, in the hope that TM-S opposed it so that costs could be asked against her relying on s 118. That, in my view, is an unwholesome practice which the courts should not countenance. Public policy is firmly set against such practice. Our courts are busy enough as it is to become theatres for playing chicken.

[58] On a plain reading, s 118 leaves no room for seeking a costs order against someone if none of the jurisdictional facts for its invocation are present. I am satisfied that it was not the legislature's intention to extend the reach of s 118 to the sort of case that was before the Labour Court, ie the institution of litigation to test if it would be opposed. When the amendment was made it clearly was incompetent, frivolous and vexatious. TM-S was therefore entitled to seek a punitive costs order under s 118 against the first respondent. I will therefore include it as part of the order the High Court should have made.

[59] As regards s 134, there is merit in TM-S's complaint that the first respondent ought to have filed an affidavit to support the relief it was seeking by way of amendment. That is so for two reasons. The first is that it was incumbent on it, in view of the immunity from civil liability under s 134, to lay a foundation in fact for the displacement of s 134. Second, it would have made it apparent to TM-S that she was not at risk of a costs order if she did not oppose the relief which was sought by way of amendment.

[60] In the present case, not only did the first respondent in its pleadings fail to lay reliance on s 134; it nowhere sets out any facts which entitle it to TM-S's immunity from civil liability being forfeited in the way it happened in the proceedings in the court *a quo*. The High Court therefore misdirected itself in basing liability for the costs order on s 134 of the Act. That section creates statutory civil liability which must be specifically pleaded and proved by evidence. It cannot be brought in through the back door in the way it was done in the present case.

Costs

[61] Mr Hinda was assisted on appeal by Mr Narib, on the instruction of the Government Attorney. Mr Dicks for the first respondent argued that the matter was not of such complexity to have justified the employment of two instructed counsel and that in the event of the appeal being allowed, TM-S's costs be limited to one instructed counsel. I agree. TM-S should therefore be awarded the costs of one instructed counsel only.

The order

[62] I make the following order:

1. The appeal succeeds and the judgment and order of the Labour Court are set aside and substituted for the following order:

> 'The application is dismissed. TM-S is awarded costs against the applicant for proceeding with the application frivolously and vexatiously as contemplated in s 118 of the Act.'

2. The first respondent is ordered to pay the costs of TM-S (the appellant) in the appeal, to include the costs of one instructing and one instructed counsel.

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DAMASEB DCJ

_____
SHIVUTE CJ

_____
CHOMBA AJA

APPEARANCES

APPELLANT:	G S Hinda (assisted by G Narib)
	Instructed by the Government Attorney
FIRST RESPONDENT:	G Dicks
	Instructed by Köpplinger Boltman Legal Practitioners