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Windhoek

Managing judge: Classen J
Date: 26 April 2023
Roll Type: Pre-Trial conference
Time: 08:30

**IN THE HIGH COURT OF
NAMIBIA
MAIN DIVISION, WINDHOEK**

**WITNESS STATEMENT: BEATA NDAENDELAO KANYAMA
RULE 92**

CASE NO: HC-MD-CIV-ACT-OTH-2022/02957

SHAPWA TANGENI KANYAMA	1ST PLAINTIFF
BEATA NDAENDELAO KANYAMA	2ND PLAINTIFF

and

MATHILDE MUTALENI KATOSHE KADHIKWA	DEFENDANT
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BE PLEASED TO TAKE NOTICE that **BEATA NDAENDELAO KANYAMA** will testify at the trial of this matter as the 2nd plaintiff and the following is her witness statement which will constitute her oral evidence which the Plaintiffs intend to adduce during the trial.

KINDLY FURTHER TAKE NOTE that the said witness reserves the right to amplify his evidence where necessary and depended upon further preparation and also with reference to possible further discovery on the part of either party.

BEATA NDAENDELAO KANYAMA will testify as follows that:

1. I am an adult female, with full legal capacity and the 2nd plaintiff in this matter.

2. I am a Self-employed businesswoman and a prominent public figure, influencer with over 5000 followers on various social media internet -based platforms such as Facebook, twitter and Instagram. I am the owner and founder of the Nova Financial Solutions.
3. Academically, I have been accredited with a Bachelor of Accounting (Honours); a Bachelor of Logistics and Supply Chain Management Honours; an LLM in Commercial Law; a Post Graduate Diploma in Business Administration and lately an MBA Degree.
4. The 1st plaintiff is my husband following our marriage ceremony on 27 May 2022 at Oniipa Parish, in the Oshikoto region.
5. I do confirm that our wedding ceremony was celebrated over two days, i.e. 27 and 28 May 2022. It is not in doubt that it was a 'glamorous wedding' which attracted guests with the most luxurious vehicles in the market such as, amongst others, Mercedes Benzes G-Wagon, Audi and Range Rovers. The wedding was further graced with the most elegant features, in terms of a luxurious receptions with wedding decorations put together by some of the sought after south African designer Precious the Planner.
6. The event also attracted prominent local celebrities and prominent personalities and received huge publicity through various media platforms and newspapers.
7. The wedding received huge publicity with guests posting about the wedding and creating live streams on various social media networks.
8. An article from the Namibian Newspapers which reported the event on 3 June 2022 is attached hereto as **STK 1** to the particulars of claim and also forms part of the plaintiffs' bundle of discovered documents.
9. It is trite that the wedding of that magnitude costed us an amount of approximately 10 million.

10. As at May/June 2022 therefore, our wedding event was well within the public sphere as wedding of the year.
11. On or about 30 May 2022, the Defendant made an audio recording containing defamatory statements of and concerning the 1st plaintiff. This audio was shared on published and circulated on various WhatsApp groups and social media platforms such as Facebook, Instagram and Twitter.
12. I further confirm that the statements made related to the 1st plaintiff by implication or insinuation from the facts that can easily be identified with the 1st plaintiff, most importantly in relation to our glamorous wedding.
13. As a consequence of the defamatory statements, the statements, insinuations and suggestions made by the defendant are also defamatory, wrongful and infringes on, alternatively is injurious towards my name, dignity, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society, particularly the knowledgeable whose mind went to me when they heard or read the utterances. This is because the statements impute, suggest or indirectly imply that the I am married to a man who is dishonest, a corrupt businessman, and who is committing criminal acts in addition to embezzling public funds for his own benefit.
14. I confirm that the defamatory statements were made intentionally and with malice to lower and undermine my good name, fame, dignity, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society.
15. As a result of the statement, I have also been affected by the indirect *intention to injure* me as the statements made by the defendant has an indirect and injurious effect on my status, fame and dignity. I am the wife of the 1st plaintiff and as a consequence of this particular relationship with the 1st plaintiff, my personality too has in fact been infringed.
17. I deny that the statements made were not wrongful and defamatory. The statements made were definitely not in the public interest as they are untrue

and even though the defendant may have her opinion on public matters, it does not justify the defamatory words used against the 1st plaintiff. The comments were therefore not fair and reasonable in the circumstances. The fact that the comments made by the defendant were her honest and bona fide opinion and in the exercise of her right to freedom of speech, this would not constitute a legal defence against defaming the character of the 1st plaintiff and consequentially mine as the 1st plaintiff's wife, as such right is subject to the laws of defamation.¹

18. The defendant therefore made the statements with the indirect intention to lower and undermine my good name, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society. Since the publication of the defamatory statements during May 2022:

18.1 I have been subjected to Cyberbullying, because of my association to the 1st Plaintiff as my husband. The social media platform has become toxic at an aggravated level with public opinions with reference to any medical short supplies which scenarios are being associated to my husband as the culprit. Because of the level of attacks on social media platforms, I had to close down my accounts on various media platforms to avoid responding to such accusations in the public sphere;

18.2 The effect and attacks that I am experiencing now as a result of the defamatory statements by the defendant honestly aggravated since May 2022;

18.3 I cannot move freely in public because I am afraid of getting verbally or physical attacked from members of the public who think my husband is responsible for the shortcoming of medical supplies in public hospitals. This is a reasonable fear considering the effect and insinuations in the defamatory statements made by the defendant and it has costed us a

¹ See paragraph 8 of the replication.

large amount of money to secure security for the 1st plaintiff, myself and our family.

- 18.4 Our children have since been subjected to negative comments from their fellow classmates because of the negative image painted on me as a parent, a factor which could possibly affect their safety and performance at school;
19. I have therefore suffered significant damages as a result of the defamatory statements made by the defendant. In the absence of a legal defence or justification thereof, the defendant's intention is clear from the statements she made, which is to, although indirectly targeted to me, lower and undermine my good name, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society.
20. To this, the defendant is liable for the damages that I suffered as claimed in the particulars of claim.

I believe that the facts contained in my statement are true and correct to the best of my knowledge.

DATED AT WINDHOEK ON 14 APRIL 2023.



BEATA NDAENDELAO KANYAMA