

**IN THE HIGH COURT OF SOUTH AFRICA**

**EASTERN CAPE DIVISION**

**Case No. 3170/06**

**In the matter between**

**MACDONALD LITSILA FANI**

**Plaintiff**

**and**

**FORT BEAUFORT RESIDENTS ASSOCIATION**

**1<sup>ST</sup> Defendant**

**MAHLATHINI L PAPU**

**2<sup>nd</sup> Defendant**

**NOZUKO NOMAWELE JEYI**

**3<sup>rd</sup> Defendant**

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**JUDGMENT**

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**Froneman J.**

This is an unopposed claim for damages for defamation against the first and third defendants, upon whom there has been proper service. Plaintiff seeks a postponement sine die of the matter against the second defendant.

The plaintiff is a full time municipal councillor. He has been active in politics for a long time. In 1960 he was detained without trial for five months. He was banished to Fort Beaufort and in 1963 he was banned for five years under the then Suppression of Communism Act. Subsequent to that he became involved in local politics in the Ciskei homeland. After the unbanning of the liberation movements in the early 1990's he became treasurer of the Border region of the ANC and served as a Member of Parliament in Cape Town from 1994 to 1999. He has been a councillor since 2006 and remains a member of the Amathole region of the ANC.

The plaintiff's complaint relates to the same allegations made about by the third defendant, representing the first defendant, on two different occasions; once on national television and another to a full municipal council meeting. The allegation was that he was the owner of five RDP (Reconstruction and Development Project) houses and deriving unfair advantage from that in view of having received a house and compensation from the previous government. The allegations are false: the plaintiff does not own any RDP houses and refused to vacate the house he was living in when ordered to do so by the previous government. Nevertheless, an investigation into the allegations were launched by the Public Protector and until he was exonerated, the plaintiff's position as a councillor and in the ANC was under threat.

The plaintiff testified that he was embarrassed, hurt and humiliated by the false allegations. He is proud and reliant on his good name and integrity.

The allegation were defamatory in nature. The only issue that remains is the amount of damages that the plaintiff is entitled to. Mr Cole, who appeared for the plaintiff, referred me to five reported cases (a copy of the written note dealing with these authorities is in the court file) and suggested that R50000.00 would be appropriate award.

In my view it is important to temper the plaintiff's justified complaint about these irresponsible defamatory statements by political opponents with an award which is not so excessive so as to stultify further public debate about political issues he may be involved in. I do not have particular evidence before me, but I think it is safe to accept that the consequences of any award I make will be felt in a local,

predominantly rural and not rich context. Under these circumstances I consider an award of R25000.00 as damages to be appropriate, but costs on a High Court scale is, in my view, also appropriate.

ORDER

- 1 The first and third defendants are ordered to pay the plaintiff R25000.00 as and for damages, jointly and severally;
- 2 The first and third defendants are ordered to pay the plaintiff's costs of suit, together with interest on the taxed costs from the date of allocatur to date of payment.
- 3 The case against the second defendant is postponed sine die.

J.C.FRONEMAN  
**JUDGE OF THE HIGH COURT**