

NOT REPORTABLE

IN THE SOUTH GAUTENG HIGH COURT OF SOUTH AFRICA

JOHANNESBURG

CASE NO: 13095/2011

DATE: 01/06/2011

DELETE WHICHEVER IS NOT APPLICABLE	
REPORTABLE: YES/NO OF INTEREST TO OTHER JUDGES: YES/NO REVISED	
_____ DATE	_____ SIGNATURE

In the matter between:

SOCIETY FOR THE PROTECTION
OF OUR CONSTITUTION

Applicant

And

JAMIATUL ULAMA TRANSVAAL

1st Respondent

MUSLIM JUDICIAL COUNCIL

2nd Respondent

UNITED ULAMA COUNCIL OF SOUTH AFRICA

3rd Respondent

JAMIATUL ULAMA OF KWAZULU-NATAL

4th Respondent

MINISTER OF JUSTICE

5th Respondent

JUDGMENT

C. J. CLAASSEN J:

- [1] This is a very strange application. The applicant is the Society for the Protection of our Constitution. The first respondent is Jamiatul Ulama Transvaal. The second respondent is the Muslim Judicial Council. The

third respondent is the United Ulama Council of South Africa. The fourth respondent is the Jamiatul Ulama of Kwazulu-Natal, and the fifth respondent is the Minister of Justice.

[2] The relief which is sought is the following:

- “1. Declaring that the document described as a resolution, and annexed to applicant’s founding Affidavit as annexure SPC4 is a nullity and unlawful;
2. Declaring that the third respondent is not a lawfully constituted voluntary association and has no legal standing;
3. Setting aside the documents marked resolution, and annexed to the applicant’s founding Affidavit as SPC4; and
4. Costs of suit.”

[3] The impugned resolution has caused Mr Uluma for the applicant nightmares. It was a resolution taken on 14 February 2011 in Cape Town, by the first and second respondents who are voluntary associations, and the resolution reads as follows:

- “1. The president, in consultation with the deputy presidents agree that the JUKZN (*that is a reference to the fourth respondent*) will henceforth be excluded from all future deliberations regarding UUCSA (*that is a reference to the third respondent*) deliberations on the MPL.
2. JUKZN’s exclusion from future MPL deliberations is not based on them holding a different view but because they have breached the relevant resolutions as outlined in the minutes of 20 September 2010.
3. The house agreed to publish and distribute the “frequently asked questions” booklet.
4. Members agreed on amendments to various clauses in the bill.
5. The UUCSA’s submission to the Minister of Justice will be ready by the end of February 2011.
6. UUCSA will convene a meeting of members who subscribe to the principles of engagement to endorse the proposed changes before making the submission.”

[4] A mere cursory look at this resolution indicates that the first and second respondents are at loggerheads with the fourth respondent for some reason. The third and fourth respondents are members of the first and second respondents. Hence, if the fourth respondent felt

aggrieved about this decision then one would have expected the fourth respondent to approach the court for relief. Instead, the fourth respondent has abided the decision of this court.

[5] The applicant is neither a member nor an overseeing body of the first four respondents. It was argued that the applicant has no *locus standi* to interfere with the internal working of the first, second, third and fourth respondents. I agree with that submission. This resolution is an internal domestic resolution indicating that there is some squabbling between the relevant members of the first and second respondents. With due respect to Mr Uluma, the applicant has no business in intervening in their internal affairs.

[6] Mr Uluma relied heavily on Section 38 of the Constitution, entitling anyone who alleges that his or her rights have been breached, to approach a court for relief. Now with due respect that section is wholly inapplicable. The high water mark of the applicant's gripe is stated in paragraph 14.2 of the founding Affidavit where the following allegation is made:

"Applicant is apprehensive that unless SPC4 hereto is declared to be a nullity, the fifth respondent (*Minister of Justice and Constitutional Development*) may be misled into believing that the Muslim Marriages Bill has the approval of the United Ulama Council, i.e. the third respondent...in addition, unless SPC4 hereto is declared to be a nullity, the national assembly might themselves be lulled into believing that the third respondent has endorsed and approved the enactment of the Muslim Marriages Bill, albeit in an amended form."

[7] The applicant has not alleged that any of his rights have been violated in contravention of the protection enshrined in the Constitution. I cannot therefore find that the applicant has any *locus standi* entitling him to have brought this application.

[8] For the reasons set out above I make an order that the application is dismissed with costs.

THUS DONE AND SIGNED AT JOHANNESBURG ON THIS 12th DAY OF
JULY 2011.

A handwritten signature in black ink, appearing to read 'C. J. Claassen', written in a cursive style.

C. J. CLAASSEN
JUDGE OF THE HIGH COURT

Counsel for the Applicant: Adv T. Dalrymple

Counsel for the Respondent: Adv J. A. Babamia