

**REPUBLIC OF NAMIBIA**



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

**RULING I.T.O. PRACTICE DIRECTIVE 61**

CASE NO. HC-MD-CIV-MOT-GEN-2018/00294

In the matter between:

**WORKERS' REVOLUTIONARY PARTY**

**APPLICANT**

and

**SALMON FLEERMUYS**

**1<sup>ST</sup> RESPONDENT**

**KLAUS WEICHHAUS**

**2<sup>ND</sup> RESPONDENT**

**Neutral Citation:** *Workers' Revolutionary Party v Fleermuys* (HC-MD-CIV-MOT-GEN-2018/00294) [2020] NAHCMD 278 (9 July 2020)

**Coram:** Masuku J

**Heard on:** 16 June 2020

**Delivered:** 09 July 2020

---

**ORDER**

---

1. The applicants for joinder, Mr. Willem Beukes and the WRP represented by Mr. Hewat Beukes be and are hereby joined as respondents in the matter.

2. The parties so joined are ordered to file their answering affidavits to the main application by 24 July 2020.
3. The applicant is to file its replying affidavit by 5 August 2020.
4. The matter is postponed to **20 August 2020** at **8h30** for a case management conference.
5. The parties are to file a joint case management report 3 days before the date of hearing in 4 above.

---

### REASONS FOR THE ORDER

---

Masuku, J

#### Introduction and background

[1] Serving before court is an application for joinder brought by two different applicants for joinder as parties to the main application.

[2] The first applicant for joinder is a certain Mr. Willem Beukes who claims that he has been a member and the President of the Workers' Revolutionary Party ("WRP"), the applicant in the main application, and also its authorised representative.

[3] Mr. Willem Beukes deposes that he is the sole, authentic and *bona fide* as well as legitimate leader of the WRP. This, he says is evidenced by Government Gazette of the Republic of Namibia No. 5609 dated 14 November 2014, in which the registered political parties and lists of their candidates were gazetted for purposes of the General Elections that were to be held during 2014 and on which , he was listed in the number one position.

[4] According to Mr. Willem Beukes, he was confirmed and endorsed as President of the WRP at the Extraordinary Congress of the political party which was held in Windhoek on 14 May 2019. He alleges further that there is no other individual or

functionary who is authorised to institute legal proceedings on behalf of the WRP in the capacity as Party Representative other than him.

[5] The other applicant, who wishes to be joined to these proceedings, is a certain Mr. Hewat Beukes. According to him, he wishes to have the “real WRP” joined to the proceedings as a necessary party, this, owing to the fact that the current applicant is allegedly impersonating the identity of the actual WRP. According to Mr. Beukes, he is its authorised representative.

[6] This applicant for joinder argues that it has a direct and substantial interest in the matter in that the WRP set to be joined as party is duly registered in terms of the Electoral Acts of 1992 and 2014 respectively. According to Mr. Hewat Beukes, in his alleged capacity as authorised representative of the WRP for joinder, there is then established, the capacity to sue, the ability, power and legal right to take any civil action against the applicant in the main application as well as the respondents for the wrong they have caused to the real WRP.

[7] According to this applicant for joinder, the “real WRP” has been dispossessed of its immovable and movable property in a fraudulent manner and it has thus discharged its onus in proving that the WRP for joinder is a necessary party to the proceedings in that the interest it has in the matter is self-evident.

[8] Furthermore, it is argued on behalf of the “real WRP” that the main application has been brought by a person who is not the authorised representative and that as a result, the applicant must be joined to the proceedings.

[9] The application for joinder by both the aforementioned parties is opposed by the applicant in the main application.

[10] The opposition is on the grounds that both applicants for joinder wish to be joined to the main application so that they can prosecute the claim of the applicant against the respondents in the main application.

[11] They further oppose on the grounds that neither applicant for joinder is authorised to represent the applicant in the main application. According to Mr. Benson Kaapala, he is the only authorised representative of the applicant, he also deposed to the founding affidavit in the main application.

[12] Mr. Kaapala argued on behalf the applicant that when funds were disbursed by the Government to the applicant, the constitution of the applicant that was used to secure the funding and opening of the bank account was that of 17 May 2015. According to this constitution, the President and authorised leader of the applicant was and still is Mr. Kaapala and that as a result, the properties of the main applicant shall be controlled and managed by the Central Committee of the main applicant.

[13] The main applicant, through Mr. Kaapala aside from opposing the joinder application, also raised three points *in limine* in respect of both applicants for joinder, namely: a) Abuse of court process; b) Failure to exhaust internal remedies; and c) Lack of *locus standi*.

#### Determination

[14] Parties are usually joined to proceedings for reasons of convenience and equity as well as to avoid a multiplicity of actions. However, there are circumstances in which it is essential to join a party because of the interest they may have in the matter and the reason for this, is that, interested parties should be afforded an opportunity to be heard in matters in which they have a direct and substantial interest.<sup>1</sup>

[15] In determining whether or not a party has a direct and substantial interest in any matter, the test as was laid down in *Amalgamated Engineering Union v Minister of Labour* 1949 (3) SA 637 (A) at 660-661 is twofold. Firstly, to consider whether the party to be joined would have locus standi to claim relief concerning the same subject matter

---

<sup>1</sup> Cilliers et al Herbstein & Van Winsen. The Civil Practice of the HC and the SC of Appeal of SA 5 ed vol 1 2009, Juta, p208.

and secondly, the test was whether a situation could arise in which, because the party had not been joined, any order the court might make would be *res judicata* against him.

[16] Apart from having a direct and substantial interest in any order that a court might make in any proceedings, if such an order cannot be sustained or carried into effect without prejudicing that party, then such party should be joined in the proceedings.

[17] Before court is an application for joinder by two different persons, each claiming in their own right as being the bona fide and only authorised representative of the WRP. Aside from these claims, there is also a claim that the current applicant, in the main application, is an imposter that is impersonating the real and actual WRP.

[18] All applicants for joinder, as is apparent from the papers, provide documentation in various forms as to why they are the authorised representatives of the applicant in the main application respectively. That is, they all lay claim to the throne and have the papers to show for it.

[19] This court is not at liberty to handpick at this stage which of the applicants could be or is indeed the authorised representative or which is the real WRP in the present proceedings. However, when regard is had to the papers that have been filed of record, it becomes quite apparent that the applicants for joinder may have a legitimate interest in the order that this court may make and may thus be adversely affected by such an order.

[20] In the absence of a waiver of rights to be joined by any of the applicants for joinder, this court finds it fitting that the parties must be joined to the proceedings as necessary parties as the order that may be given in the main application has the potential to prejudice their rights.

[21] In the circumstances therefore, the order that the court makes is the following:

1. The applicants for joinder, Mr. Willem Beukes and the WRP represented by Mr. Hewat Beukes be and are hereby joined as respondents in the matter.
2. The parties so joined are ordered to file their answering affidavits to the main application by 24 July 2020.
3. The applicant is to file its replying affidavit by 5 August 2020.
4. The matter is postponed to 20 August 2020 at 8h30 for a case management conference.
5. The parties are to file a joint case management report 3 days before the date of hearing in 4 above.

---

T.S Masuku  
Judge

APPEARANCES:

APPLICANT: H. Awaseb  
Of Awaseb Law Chambers.  
Windhoek

RESPONDENTS: HR Ujaha  
Of Mukonda & Co. Inc.  
Windhoek