

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO ...

In the matter between

MARIO THEMBEKA MASUKU

1ST APPLICANT

MAXWELL MANQOBA DLAMINI

2ND APPLICANT

and

THE PRIME MINISTER OF SWAZILAND

1st Respondent

**THE MINISTER OF JUSTICE AND
CONSTITUTIONAL AFFAIRS**

2ND Respondent

DIRECTOR OF PUBLIC PROSECUTIONS

3rd Respondent

ATTORNEY GENERAL

4th Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE THAT application will be made on behalf of the above Applicant, to this Honourable Court, on the day of 2014 at about hrs or so soon thereafter as the matter may be heard for an order in the following terms:

1. Declaring the following provisions of the Suppression of Terrorism Act 3 of 2008 (the Act) to be inconsistent with the Constitution of the Kingdom of Swaziland, and therefore void:
 - 1.1. Paragraph (1) of the definition of “terrorist act” in section 2 of the Act;
 - 1.2. Paragraph (2)(j) of the definition of “terrorist act” in section 2 of the Act;
 - 1.3. Paragraph (b) of the definition of “terrorist group” in section 2 of the Act;
 - 1.4. Section 11(1)(a) of the Act;
 - 1.5. Section 11(1)(b) of the Act; and
 - 1.6. Sections 28 and 29(4) of the Act.
2. As a result, striking out the provisions of the aforesaid sections in their entirety.
3. Alternatively to 2 above, excising such portions of the sections, or reading in such words into the sections, as are necessary to make the said sections consistent with the Constitution of the Kingdom of Swaziland.
4. That the declaration of invalidity operates with effect from the date on which the Act became law, alternatively such other date which the court may deem just and equitable.

5. Declaring the following provisions of the Sedition and Subversive Activities Act, 1938, to be inconsistent with the Constitution of Swaziland, and therefore invalid:
 - 5.1. Section 3(1);
 - 5.2. Sections 4(a), (b), (c) and (e); and
 - 5.3. Section 5(1) and (2).
6. Alternatively to 5 above, excising such portions of the sections, or reading in such words into the sections, as are necessary to make the said sections consistent with the Constitution of the Kingdom of Swaziland.
7. Such orders as the court may deem appropriate to deal with any acts that have already been taken in terms of the impugned provisions. .
8. That the Respondents be ordered to pay costs of this application in the event it is unsuccessfully opposed.
9. Further and/or alternative relief.

TAKE NOTICE THAT the affidavits of **MARIO THEMBEKA MASUKU** and **MAXWELL MANQOBA DLAMINI** attached hereto sets out the grounds on which the requested relief is sought and shall be used in support of the application.

TAKE FURTHER NOTICE THAT the applicants have appointed Leo Gama and associates c/o T.L. Dlamini and Associates, Apex House, Sheffield Road, Industrial Site Mbabane, as the address at which they will accept notice and service of all documents in this proceeding.

TAKE FURTHER NOTICE THAT, if you intend opposing the application, you are required to:

- (a) Notify the applicants' attorneys in writing within fourteen (14) days from the date of receipt of this application, and in that notice appoint an address at which you will accept notice and service of all documents in these proceedings; and
- (b) Within fourteen (14) court days of notifying the applicant attorneys of your intention to oppose this application, deliver your answering affidavit, if any, together with any relevant documents.

KINDLY PLACE THE MATTER ON THE ROLL FOR HEARING ACCORDINGLY.

DATED AT MBABANE THIS THE.....DAY OF OCTOBER 2014.

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LEO GAMA AND ASSOCIATES
(APPLICANTS' ATTORNEYS)
C/O T.L. DLAMINI AND ASSOCIATES
APEX HOUSE, INDUSTRIAL SITE
MBABANE

TO: **THE REGISTRAR OF THE
HIGH COURT
MBABANE**

AND TO: **THE PRIME MINISTER OF SWAZILAND**
CABINET OFFICES
OPPOSITE CORRECTIONAL HEADQUARTERS
MBABANE

Received a copy hereof on
this the day of October 2014

Signed

Time
For First Respondent

AND TO: **THE MINISTER OF JUSTICE
AND CONSTITUTIONAL AFFAIRS**
MINISTRY OF JUSTICE BUILDING
USUTHU LINK ROAD
MBABANE

Received a copy hereof on
this the day of October 2014

Signed

Time
For Second Respondent

AND TO: **THE DIRECTOR OF
PUBLIC PROSECUTIONS**
4TH FLOOR, MINISTRY OF JUSTICE BUILDING
USUTHU LINK ROAD
MBABANE

Received a copy hereof on
this the day of October 2014

Signed

Time
For Third Respondent

AND TO: **THE ATTORNEY GENERAL**
4TH FLOOR, MINISTRY OF JUSTICE BUILDING
USUTHU LINK ROAD
MBABANE

Received a copy hereof on
this the day of October 2014

Signed

Time
For Fourth Respondent