**Muleya v Common Market for Eastern and Southern Africa (3)**

**Division:** Comesa Court of Justice at Khartoum Sudan

**Date of judgment:** 1 July 2003

**Case Number:** 1/03

**Before:** Akiwumi LP, Korsah, Nyankiye, Kalaile and Ogoola LJJ

**Sourced by:** AM Akiwumi

**Summarised by:** C Kanjama

*[1] COMESA – Tort of libel – Whether press release on previous court ruling defamatory of Applicant –*

*Whether Applicant entitled to damages.*

*[2] Tort – Libel – Press release on court findings – Defamatory matter through imputation in press*

*release – Whether plea of justification established – Whether Applicant entitled to damages – COMESA*

*Court.*

**Editor’s Summary**

The Applicant filed an application for reinstatement at the COMESA Secretariat. In a reasoned ruling, the COMESA Court refused to order reinstatement. The COMESA Secretariat, the Respondent, issued a press statement of the said court decision. The said press release was not objective as it only highlighted the findings of the Court which were favourable to the Secretariat, and the said findings were misconstrued. The Secretariat stated that the Applicant’s services had been terminated “on the basis of poor performance”. The Applicant then filed the current reference claiming that the press release by the Respondent was defamatory. The Respondent did not dispute the publication of the words complained of but entered a plea of justification. It was argued that the imputation in the press release that the Applicant’s services were terminated on the basis of poor performance was true.

**Held** – The words complained of clearly imputed that it was the Court’s decision that it could not reinstate the Applicant as Director on the basis of poor performance. This imputation was wrong, and the plea of justification could not be upheld. The publication of the defamatory matter was worldwide, since it was carried both in print and electronic media. There was evidence that the Applicant had subsequently been unable to obtain a job in the private sector, although he subsequently obtained a prestigious job in the public sector. A fair estimate of damages would be US$ 2 000. In the circumstances of this particular case, it would not be necessary to grant injunctive relief against the further publication of the defamatory words. Reference granted. **Cases referred to in judgment**

*College of Medicine of University of Lagos v Adegbite and Thomas* [1973] ALR

*Ogang v Eastern and Southern African Trade and Development Bank (PTA Bank) and another* reference