

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO. 3102 OF 1999



BETWEEN:

REGISTERED TRUSTEES OF THE PLAINTIFF
CENTRAL AFRICA CONFERENCE OF SEVENTH DAY BAPTIST

- VERSUS -

PASTOR RONALD BARRAR DEFENDANT

CORAM: TWEA, J.

Katundu, of Counsel for the Plaintiff
Kamkwasi, of Counsel for the Defendant
Tembo (Mrs), Official Interpreter

R U L I N G

This is an application by the respondents in the original cause herein. The application is to discharge or dissolve the injunction granted against the respondents.

The facts as deponed are that the applicants and the respondents all belonged to the Central African Conference of Seventh Day Baptists. A conflict arose between them and the respondents led by the deponent: Pastor Ronald Barrar formed a new Church called



"Sabbatarian (Seventh Day) Baptist Church of Malawi". The applicants averred that the respondent had been praying and preaching in churches that belong to them and sought an interim injunction.

The respondent now apply to dissolve that injunction on the ground that the applicants suppressed the information that applicants have their churches but that the other churches belong to the Association of the Original Seventh Day Baptist in Malawi under which they had been worshipping. They also prayed for damages for violation of their right to worship as per the constitution.

I have looked at the affidavit of Pastor Nantikwa for the applicant as amended. I will disregard paragraphs 2(a) (b) and (c). It is my view that all these subparagraphs do is tell court that the 1st respondent is an unincorporated person. This is totally immaterial, and, further to this, lacks substance. Paragraph 2(d) and (e) aver that the applicant and the respondents came into conflict and fell out. It is not disclosed when this happened. Further it's stated that the defendants formed their own church as evidenced by the letter to the Chief Executive of the City of Blantyre: exhibit LGN1. When this new church was formed is not disclosed. What is clear however, is that the letter Ex. LGN 1 was written on 25 November 1998 and was request for grant of land within the city of Blantyre to establish a Bible College which would consist of a church and sundries. They were not asking for land to build a church, but a Bible College. One assumes that they must have had a church and a following for which they wanted to train. Even if I were wrong in making this assumption I would still find that there is nothing, on the facts deposed, to suggest that this church was starting then: 25. 11. 98. If anything at all, this church was already in existence by the said date.

Paragraph 3 avers that the respondents in the last few months of



the year 1999 had been to and preached in the churches that belonged to the applicant without leave. This begs the question. Were the respondents not preaching before then? If they were, where were they preaching? The respondents contend that they had been worshipping before then in their own church under the Association of the Original Seventh Day Baptists. This was not denied by the applicant.

It appears to me, and this has not been disputed, that there is an Association of Original Seventh Day Baptists which owns churches other than those that belong to the applicants: Trustees of the Central Africa Conference of Seventh Day Baptists. The relationship between these two religious organisations, at this point in time, is not known. It has been deponed, and not disputed that its not mandatory for a Seventh Day Baptist Churches to affilliate with the applicant. How many Seventh Day Baptist Churches there are is not known as of now - nor can one say which are affiliated.

Religion and worship are very sensitive issues in all Communities. This court would be failing in its duty if it did not recognise this. However, in view of the competing interests which are likely to be in conflict, as is in this case, the court should be slow to grant prominence to one group in the absence of the full facts and without the instruments that set up and regulate the religious institutions.

Religious institutions are ordinarily headed by level headed pragmatic leaderships. One would hope that in the face of conflict self - interest will not be overtaken by selfishness. On the facts before me, I find that had my brother judge been made aware that there are several organisations involved and that these have regulations to govern their association, he would have been very slow to restrain one group from using some facilities. It is for this reason that I dissolve this injunction partly. The respondent be allowed to preach and

worship in any church house that they were worshipping in before 30th June 1999 until this matter is determined.

I have considered the question of the violation of the freedom of worship but I find that this has not been established. The injunction was about going into church houses not worshipping. One can worship in open air, in classroom, office, house. The defendants were free to worship. This ground therefore must fail.

I order each party to bear its own costs.

Pronounced in Chambers this 21st day of January 2000 at Blantyre.



E. B. Twea
JUDGE