

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Kasheke v. Canada (Attorney General)*, 2015 NSSC 375

**Date:** 2015-12-31

**Docket:** *Hfx No. 434273*

**Registry:** Halifax

**Between:**

Rev. Dr. Abella Ezra Kasheke

*Plaintiff*

v.

Attorney General of Canada

*Defendant*

and

John Baird, Minister for Foreign Affairs

*Defendant*

**Judge:** The Honourable Justice Patrick J. Duncan

**Heard:** December 29, 2015 at Halifax, Nova Scotia

**Written Decision:** December 31, 2015

**Counsel:** Rev. Dr. Abella Ezra Kasheke, Self-Represented

Melissa Grant, for the Defendants, the Attorney General  
of Canada and John Baird, Minister of Foreign Affairs

**By the Court:**

[1] The plaintiff, Rev. Dr. Abella Ezra Kasheke, has initiated an action against the Attorney General of Canada and the Minister for Foreign Affairs seeking damages arising out of what the plaintiff has characterized as, “breaches of legal and Constitutional duties” owed to him by the defendants. A Defence has not been filed yet.

[2] On December 29, 2015 the plaintiff appeared in Chambers in support of four motions dealing with issues of costs in the matter.

[3] The first three motions were presented under **Rule 77.02** and **77.03**. In effect, the plaintiff sought an order requiring the defendants to pay him the sum of \$100,000 to enable him to retain legal counsel to carry on his action against the defendants.

[4] The plaintiff, who is self-represented, prepared a lengthy written submission in advance of the Motion Hearing. Counsel for the defendants also filed written submissions. Having reviewed these I advised the parties at the outset of the Motions Hearing that I did not require oral submissions and that the plaintiff’s request for an order requiring the defendant to pay him costs would not be granted.

[5] The fourth motion presented by the plaintiff seeks an order of the Court pursuant to **Rule 77.04** to relieve him from possible liability for costs in the action. He alleges that he is impoverished.

[6] During the plaintiff's oral submission in support of this Motion, he became ill and unable to continue. It appeared that he lost consciousness, and was ultimately taken from the courtroom by Emergency Health Services. I adjourned the hearing to January 7, 2016 at which time the defendants' Motion for Summary Judgment on Pleadings is scheduled to be heard. At the time of the adjournment, submissions on the fourth motion were incomplete and no judgment has been rendered.

[7] Unfortunately, due to the plaintiff's illness, I was unable to provide oral reasons in support of my decision to dismiss the first three Motions. These are the reasons.

[8] **Rule 77** provides a presiding judge with a general discretion to make an order for costs that is intended to do justice as between the parties. It is a means by which one party compensates another party for part of the compensated party's expenses of the litigation. Costs are regularly awarded to the successful litigant after the determination of a motion, an application or an action. They may also be

awarded to a party responding to a motion, application or action that has been abandoned or withdrawn. In short, costs are assessed at the end of the process and not before as the plaintiff seeks. I am aware of no legal authority to order a defendant to contribute money to the plaintiff to assist that plaintiff in prosecuting their claim against the defendant.

[9] For these reasons I am satisfied that there is no merit to the plaintiff's Motions seeking an award of costs at this point.

[10] The motion under **Rule 77.04** is outstanding and will be for consideration by the Justice presiding on January 7, 2016.

Duncan, J.