LINDA TSUNGIRIRAI MASARIRA
versus
THE RESERVE BANK OF ZIMBABWE

HIGH COURT OF ZIMBABWE
DUBE-BANDA J
HARARE; 21 November 2024 & 7 May 2025

Court application for a declaratur and consequential relief

O. Shava for the applicant
A.B.C. Chinake for the respondent

DUBE-BANDA J:

[1] This is an application for, *inter alia*, declaratory orders and consequential relief. The *declaratur* sought is couched in the following terms:

i. The respondent has an obligation to facilitate easy and formal access to foreign currency by the public.

ii. The existing regulatory framework is overly restrictive and unlawfully hinders applicant from having easy access to foreign currency.

The consequential relief sought is that:

iii. A mandamus be and is hereby issued directing the respondent to expand the willing-buyer-willing-seller trading arrangement to permit applicant and the general public to access forex through banks and bureaux de change within thirty days of the grant of this application.

iv. A mandamus be and is hereby issued directing the respondent to expand the Operational Guidelines for Authorised Dealers with Unlimited Authority-Money Transfer Agency and Bureaux de Change to permit applicant and the general public to access forex through banks and bureaux de change within thirty days of the grant of this application.

v. A mandamus be and is hereby issued directing the respondent to adopt measures such as collaboration with mobile money operators and mobile money agents to

enhance the seamless accessibility of foreign currency by applicant and the public within thirty days of the granting of this application.

vi. That the respondent pays the costs of suit of this application on a legal practitioner and client scale.

[2] The applicant describes herself as a citizen who is resident in Zimbabwe. The respondent is the Reserve Bank of Zimbabwe established in terms of s 4 of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] It is a body corporate capable of suing and being sued in its own name and of performing all acts that bodies corporate may by law perform.

[3] The respondent opposes this application on several preliminary points and on the merits.

Factual background

[4] The applicant contends that in terms of the law Zimbabwe has a multi-currency system, which shall be in force until 31 December 2030. Further, it is stated that the law permits a dual pricing and displaying system in that any person who provides goods and services is allowed to display, quote or offer the price for goods and services in both the local currency and foreign currency at the ruling exchange rate. It is further contended that despite the existence of the multi-currency regime, most domestic transactions are conducted in United States dollars, which is contributing to its shortage in the market. It is stressed that the United States dollar is the most dominant and preferred currency. Further, the applicant alleges that the Government through some of its agencies provide services exclusively in United States dollars. She says fuel is sold exclusively in United States dollars. It is contended that it is the duty of the respondent to ensure that the public has easy access to foreign currency, and that the existing legal framework in respect of trading of foreign currency needs to be broadened to enable the public to purchase foreign currency with easy and convenience. It is alleged that the current legal framework infringes on applicant's right to access foreign currency. It is against this background that the applicant launched this application seeking the order stated above.

Preliminary points

[5] In the notice of opposition and heads of argument, the respondent took several preliminary points, *viz:* that the allegations against the respondent do not satisfy the requirements of a *mandamus*; imprecise and/or incompetent pleading; alleged material non-joinder; the doctrine of constitutional avoidance and the failure to exhaust domestic

remedies; alleged failure to establish a direct and real interest in the litigation; and the alleged undue interference in the lawful administrative function of the respondent.

[6] I now turn to consider these preliminary points.

[7] At the commencement of the hearing, Mr. *Chinake* counsel for the respondent informed the court that the respondent was abandoning the preliminary points on the allegation of non-joinder of the Parliament of Zimbabwe and the Attorney-General. In addition, counsel stated that the non-joinder of the fuel dealer and the Zimbabwe Energy Authority ("ZERA") will not be argued *in limine but* will be argued as part of the merits of the matter. Nothing further will be said in respect of the abandoned preliminary points.

[8] Counsel further informed the court that the respondent was persisting with the preliminary points on imprecise and incompetent pleadings, and the contention that the applicant failed to harness alternative remedies available to her. The other preliminary points taken in the notice of opposition were not pursued in argument, I take it that they were abandoned.

[9] On the point turning on imprecise and incompetent pleadings, the respondent contends that the applicant failed to challenge the existence of the legal framework governing the use of foreign currency in the country. It was argued that there is a presumption of constitutionality or legal validity that exists regarding legislative acts, and the applicant has made no attempt to impugn legislation giving effect to the conduct she is complaining off. It was argued that this application must fail on this score alone.

[10] *Per contra*, the applicant argued that she has firmly established her cause of action for a *mandamus* she is seeking. It was further contended that she is not enjoined to impugn the legal framework governing the use of foreign currency. It was argued that she seeks an order compelling the respondent to fulfil its obligations in terms of the law. The applicant submitted that the preliminary point has no merit and must be dismissed.

[11] It is important to make the point that a *point in limine* is a technical legal point, which, if successful, is dispositive of the matter prior to the consideration of the merits of the case. In *casu*, the issue of pleadings and the cause of action, are matters that turn on the merits of the case. The question whether the applicant should have first challenged the legal framework governing the use of foreign currency in the country, and the question whether the applicant has established her cause of action for a

mandamus she is seeking, are questions that require the court to delve into the factual matrix of the matter. These are not technical legal points, which, if successful are dispositive of the matter prior to dealing with the merits of the case. It is for these reasons that I take the view that the allegations of imprecise and incompetent pleadings do not qualify to be elevated to preliminary points.

[12] On the issue of failing to harness alternative remedies, the respondent argued that the dispute arises from a transaction between the applicant and a fuel dealer who allegedly failed or refused to sell fuel to her in local currency. It was contended that the applicant has failed to show that she has taken any legal or administrative action against the fuel dealer concerned. It was argued that she has not shown that she reported the dispute between her and the fuel dealer to the Zimbabwe Energy Regulatory Authority ("ZERA"). It was argued further that she has open avenues of redress against the fuel dealer. Further, the respondent argued that the principle of constitutional avoidance requires that a litigant must, where available seek redress in a non-constitutional matter by either litigating based on ordinary civil law or though administrative law, where there is an appointed regulator regulating a particular sector or section of economic activity. It was contended that based on this principle, the applicant must be non-suited in this matter and has no right of audience.

[13] The applicant argued that the cause of action does not arise from the dispute with the fuel dealer, but on respondent's failure to avail sufficient foreign currency to the members of the public. It was argued further that the applicant's right to sue the fuel dealer should not be conflated with her right to sue the respondent for failing to avail sufficient foreign currency to members of the public. The applicant contended further that the doctrine of constitutional avoidance has no relevance in this matter. The applicant sought that this preliminary point be dismissed.

[14] My view is that the applicant's case is not premised on the dispute with the fuel dealer, but on the alleged restricted access to foreign currency to the public, including the applicant. The issue with the dealer is merely presented as evidence of businesses demanding payment in foreign currency. Therefore, whether or ot the applicant sues the fuel dealer has no relevancy to this case. The contention that the applicant has not exhausted alternative remedies, i.e., by suing the fuel dealer has no merit. In addition, the principle of constitutional avoidance has no relevance in this matter. The notion of constitutional avoidance means that where it is possible to decide any case without

reaching a constitutional issue, that is the course that should be followed. In other words, the courts should, where possible, sidestep constitutional issues. See *S v Mhlungu* 1995(3) SA 867 (CC); *National Coalition for Gay & Lesbian Equality & Others v Minister of Home Affairs & Others* 2000 (2) SA 1 (CC); *Zinyemba v Minister of Lands & Rural Settlement and Anor* CCZ 6/16; *S v Dlamini* 1999 (4) SA 623 (CC); *Anjin Investments (Private) Limited v The Minister of Mines and Mining Development* CC Z 6/18. In *casu*, the applicant is not seeking a constitutional remedy. Even though a *declaratur* and *mandamus* may be sought as constitutional remedies, in *casu*, the former is sought in terms of s 14 of the High Court Act [*Chapter 7:06*], while the latter is sought as a common law remedy. It is for these reasons that this preliminary point must fail and is accordingly refused.

Merits

The applicant's case

[15] In summary, the applicant contends that this is an application for a *declaratur* in terms of s 14 of the High Court Act. Further, the applicant avers that the cause of action is premised on the fact that Zimbabwe has, by operation of law, a multi-currency system since 2009, which has been extended to 31 December 2030. It was stated that the law allows a dual pricing and displaying system, in that any person who provides goods or services shall display, quote or offer the price in both the local currency and foreign currency at the ruling exchange rate.

[16] The applicant contends further that despite the existence of the multi-currency regime, most domestic transactions are conducted in United States dollars, and this is said to have contributed to its scarcity in the market. Further, the applicant avers that the United States dollar is the most preferred currency, and that the Government through some of its agencies provides services exclusively in this currency. As examples, it was averred that passport fees and fees for the initial registration as a citizen by a foreign person is payable in United States dollars. The applicant further contends that certain traders and service providers such as service stations prefer the United States dollar, as they sell fuel exclusively in such currency.

[17] The applicant argued that as a citizen her right to easy access to foreign currency has been infringed by the respondent. It was stressed, citing various Statutory Instruments, that the law has effectively restored the Unites States dollar and the South African Rand as legal tenders on condition that the money was coming from free funds;

that the law allows payment in foreign currency of emergency and normal passports; that foreign currency could be used in relation to insurance business conducted in foreign currency, or pensions and provident funds whose contributions were made in foreign currency in terms of an enabling law. It was argued that the law made it permissible to charge and to tender foreign currency in payment of international travel insurance; motor insurance for vehicles in transit; customs bond insurance; third party motor insurance payment for foreign registered vehicles; safari operators' insurance; and export credit insurance; etc.

[18] The applicant contends that there are goods and services that are exclusively charged in foreign currency, and for one to procure such goods and services, one ought to pay in foreign currency. She argues that such places citizens like herself who do not have easy access to foreign currency in a precarious position. The goods and services exclusively priced in foreign currency are said to be effectively out of her reach owing to a shortage of foreign currency in circulation in the market.

[19] It was argued that as a citizen, the applicant is entitled to easy access to any currency that is designated by the government as legal tender. It was submitted that the respondent has an obligation to put in place measures that ensure that there is sufficient foreign currency for the transacting public to procure goods and services exclusively priced in foreign currency.

[20] It was stressed that in terms of s 6(1)(a) of the Reserve Bank of Zimbabwe Act [*Chapter* 22:15], the respondent has a function to regulate Zimbabwe's monetary system, and in terms of s 45, the respondent in consultation with the Minister, is responsible for the formulation and implementation of the monetary policy of Zimbabwe. It was contended that it was through the discharge of these duties that the respondent has issued restrictive operational guidelines that violate the applicant's right to access foreign currency.

[21] It was argued further that the respondent prohibits the selling of foreign currency by *bureaux de change* to the public for ordinary use. It was stressed that s 5.2.1. of the Operational Guidelines for Authorised Dealers with Limited Authority – Money Transfer Agency and *Bureaux De Change* ("Operational Guidelines") prescribes in clear terms that the selling of foreign currency to both natural and legal persons shall be for purposes of funding the international payments and other purposes as directed by the Reserve Bank. It was argued that s 5.5 of the Operational Guidelines

expounds the processing of international payments, in that all purchases for foreign payments shall be supported by invoices and bureaux *de change* must upload invoices on the system. To access another purchase, a client shall acquit the previous purchase by bringing the proof of payment. It was argued that the Operational Guidelines themselves are clear proof that the public cannot procure foreign currency for ordinary use from authorized dealers with limited authority. It was submitted that it was not necessary for the applicant to prove that she failed to procure foreign currency from authorized dealers because the respondent put in place measures that militate against the procurement of forex by the public. It was contended that the respondent must concede the restrictiveness of its Operational Guidelines and revise them to facilitate the public's access to foreign currency. The applicant sought an order in terms of the draft stated above.

The respondent's case

[22] In short, the respondent disputed that it has failed to provide access to foreign currency to the public. It was contended that the applicant has not alleged that she failed to access foreign currency; nor set out specific instances where the citizens have failed to acquire passports because of unavailability of foreign currency. She has not indicated whether she visited any *bureau de change* or bank to purchase or exchange local currency or any other currency for foreign currency and failed. It was contended that the applicant has neither provided evidence nor made any averments which show that she has not been able to access foreign currency. It was argued that she has not provided details of the level and nature of the alleged shortage of foreign currency, nor produced reports or documents or statistics that support her allegations. Neither has she alleged that she does not have a passport because she has failed to access foreign currency or because passport fees are paid in foreign currency.

[23] It was argued that the respondent does not make laws and is obliged to enforce any laws or regulations in force in Zimbabwe. It was disputed that the applicant's rights have been violated. The respondent denied that there is no provision for ordinary citizens to purchase foreign currency. It was contended that there are more than twenty-three banks and one hundred and eight authorised dealers with limited authority that are empowered to purchase and sell foreign currency to the public. It was further contended that the Zimbabwean economy is fully functional, including the foreign exchange market. It was disputed that the "willing buyer /willing seller" trading

arrangement is exclusionary, since any citizen, corporate or individual can walk into numerous registered financial institutions to buy and sell foreign currency. It was stated that there are no restrictions or limitations on any person, corporate or otherwise from accessing foreign currency from the "willing buyer / willing seller" facilitates in the country. It was argued that the foreign exchange market is regulated, and the fact that there are rules and regulations does not make it unfair. It was further contended that the current regulations in place are lawful and necessary.

[24] It was argued that the "willing buyer" and "willing seller" mode of foreign currency access and trade, by its very nature, allows intermediation between exporters, importers, corporates and private citizens to trade, i.e. buy and sell foreign currency. It was stressed that there are no classes or entities excluded. The applicant herself is not excluded from purchasing foreign currency by dint of the existence of this mode of foreign currency trading. It was argued that there are no unreasonable or unlawful restrictions or limitations on any person, corporate or otherwise from accessing foreign currency from the "willing buyer/willing seller" policy. The current regulations in place are lawful and are necessary. They constitute the valid and legal exercise of the respondent's duties and cannot be challenged on the basis sought by the applicant. The respondent sough that the application be dismissed with costs on a higher scale.

The law and the facts

[25] The applicant is seeking a *declaratur* and a *mandamus*. Regarding a *declaratur,* s 14 of the High Court Act provides that the High Court may, in its discretion at the instance of any interested person, inquire into and determine any existing, future and contingent or obligations notwithstanding that such person cannot claim relief upon such determination. Section 14 is the empowering provision, which gives this court jurisdiction to hear an application for a declaratory order. A declaratory order is an order by which a dispute over the existence of some legal right or obligation is resolved. Declaratory orders may be accompanied by other forms of relief, such as interdicts, but they may also stand on their own. See *Rail Commuter's Action Group v Transnet Ltd t/a Metrorail* 2005 (2) SA 359 (CC) para 17; *Zvomatsayi & Ors v Chitekwe No & Anor* 2019 (3) ZLR 990 (H).

[26] Turning to a *mandamus,* this is a judicial remedy available to enforce the performance of a specific statutory duty or remedy the effect of an unlawful action already taken. *See Oil Blending Enterprises (Pvt) Ltd v Minister of Labour* 2001 (2)

ZLR 446 (H) at 450. The requirements to access this judicial remedy were spelt out in the case of *Setlogelo v Setlogelo* 1914 AD at 227. The Supreme Court of Zimbabwe noted with approval the requirements of *mandamus* in the case of *Tribatic (Pvt) Ltd v Tobacco Marketing Board 1996* (2) ZLR 52 (S) at p56. The requirements that the applicant must prove for a *mandamus* are a clear right; an injury actually committed or reasonably apprehended; and the absence of a similar protection by any other ordinary remedy.

[27] In *casu*, the first issue to consider is whether the applicant is "an interested person" in the reading of s 14 of the High Court Act and the jurisprudence developed by the courts. In *Chitiga v NSSA* 2019 (2) ZLR 414 (H) at 417 - 418 the court held that:

> "In the first stage, the court inquiries into whether the applicant is an interested person in the sense of having a direct and substantial interest in the subject matter of the suit which could be prejudicially affected by the judgment of the court. ……. The second stage requires the court to decide, notwithstanding the finding in the first stage that the applicant has a direct interest, whether or not the case in question is a proper one for the exercise of the court's discretion under s 14 of the Act. WILLIAMSON J in *Adbro Investments Co. Ltd v Minister of the Interior & Ors* 1961 (3) SA 283 (T) at 285B-C (quoted with approval by GUBBAY CJ in *Mann Publishing (Pvt) Ltd, supra,* described what constitutes a proper case for the exercise of the court's discretion under s 14 in the following terms:
>
> > 'I think that a proper case for a purely declaratory order is not made out if the result is merely academic interest to the applicant. I feel that some tangible and justifiable advantage in relation to the applicant's position with reference to an existing, future or contingent legal right or obligation must appear to flow from the grant of the declaratory order sought.'"

[28] The applicant seeks two declaratory orders, the first is that "the respondent has an obligation to facilitate easy and formal access to foreign currency by the public." This case is neither a class action in terms of the Class Actions Act [*Chapter 8:17*], nor human rights litigation in terms of s 85 of the Constitution of Zimbabwe Amendment (No. 2) Act, 2013. The applicant has not established an interest or standing to litigate in the interests of the public or a certain class of persons. It is for these reasons that the first part of the declaratory order sought has no merit and is ill-conceived.

[29] The second part of the declaratory order sought is that "the existing regulatory framework is overly restrictive and unlawfully hinders applicant from having easy access to foreign currency." It is this aspect of the case that requires closer scrutiny. The first observation I make is that this case is in the abstract because the applicant elected not to place a particular set of facts before the court. She has not located herself

within close proximity of the issues she is complaining about. The applicant does not say she sought to purchase foreign currency at *bureau de change* or bank and was refused to make such a purchase. The applicant argues that this does not matter, because the respondent has put in place measures that militate against the procurement of forex by the public. I think this contention is ill-conceived, I say because it is important that she establishes an interest as required by s 14 of the Act. It is the applicant who choose to approach the court in terms of s 14, and it is important that she locates her case within the ambits of this provision of law.

[30] The applicant has not alleged that she has no passport, has not alleged that she approached the Registrar of passports and was advised that she needed foreign currency to secure one; nor has she alleged that she failed to secure one because a *bureau de change* or a bank refused to sell her foreign currency. Neither has she informed the court that she has funds in local currency to purchase foreign currency. The applicant has not even informed the court that she has no other source of foreign currency or free funds to meet her requirements. I take a robust position that the issue of the fuel dealer who allegedly declined to accept local currency, if indeed it did occur, is an issue between the applicant and that fuel dealer. It cannot be used as evidence that in general fuel dealers sell their products in foreign currency to the total exclusion of the local currency.

[31] The submission that payment of insurance; pensions; provident funds; payment of international travel insurance; motor insurance for vehicles in transit; customs bond insurance; third party motor insurance payment for foreign registered vehicles; safari operators' insurance; export credit insurance could be made in foreign currency in terms of the law, is of no moment. It is of no consequence. It is so because the applicant does not say that she has been directly affected by the option to pay for such services in foreign currency. Put differently, is a question of evidence, she has not said she intended to acquire of any these goods or services but failed because the financial institutions refused to sell her foreign currency.

[32] This application has no factual foundation. It is merely speculative. Courts generally treat abstract challenges with disfavour. It is important that this court should not be required to deal with abstract or hypothetical issues and should devote its scarce resources to issues that properly present a live dispute. Abstract challenges ask courts to peer into the future, and in doing so they stretch the limits of judicial competence.

See *Savoi and Others v National Director of Public Prosecutions and Another* [2014] ZACC 5. There is no live dispute between the applicant and the respondent. The applicant locates herself nowhere close to the issues she is anchoring her application on. The applicant is just a busy body for no good measure. The applicant seeks a declaratory order merely for academic interest. It has been repeatedly held that the courts will not deal with abstract, hypothetical or academic questions in proceedings for a declaratory order. See *Munn Publishing (Pvt) Ltd v ZBC* 1994 (1) ZLR 337 (S); *Chitiga v NSSA* 2019 (2) ZLR 414 (H); *Johnson v Agricultural Finance Corp* 1995 (1) ZLR 65 (H); *Bulawayo Bottlers (Pvt) Ltd v Minister of Labour, Manpower Plaining and Social Welfare & Ors* 1998 (2) ZLR 129 (H). No tangible and justifiable advantage in relation to the applicant's position with reference to an existing, future and contingent right would flow from the declaratory order sought. If granted, the order might merely be an academic or moral victory for the applicant and nothing more. A court of law cannot exercise its power to make a declaratory order without a factual foundation, merely to answer abstract questions for merely moral or academic victory.

[33] The applicant has not placed facts before court on which this court can exercise its discretion to grant a declaratory order. Having failed to make a case for a declaratory order, no useful purpose would be served by deciding whether a case has been made for a *mandamus*. I say so because a *mandamus* is the consequential relief sought by the applicant. In other words, without a declaratory order, the question of a consequential relief does not arise. This must signal the end of this case. But merely for completeness, I deal with other important issues arising from this application.

[34] In any event, even if for a moment one considers the applicant's submission that it was not necessary for her to prove that she failed to procure foreign currency from authorised dealers because the respondent put in place measures that militate against the procurement of forex by the public. Still this application would not succeed. A closer scrutiny of this application shows that it is a challenge to s 5.2.1. and 5.5 of the Operational Guidelines for Authorised Dealers with Limited Authority – Money Transfer Agency and *Bureaux de Change* (Operational Guidelines). The applicant does not seek that these provisions be declared inconsistent with a specific legislation or regulations and therefore invalid. She is merely seeking an order that the respondent revise, expand, amend the Operational Guidelines. This court has no such power. It can only declare the provisions of the Operational Guidelines valid or invalid based on the

principle of legality. According to this principle, the exercise of public power is only legitimate when lawful. It requires that decisions must meet all legal requirements, not be arbitrary or irrational. See *Democratic Alliance v eThekwini Municipality* [2012] 1 All SA 412 (SCA). The applicant has not challenged the legality of s 5.2.1. and 5.5 of the Operational Guidelines, and without such a challenge, this court has no power to order the respondent to revise, expand, amend these provisions or adopt some other provisions that would allow the applicant to access foreign currency at financial institutions. This is so because the applicant has not sought that these provisions be declared invalid on the principle of legality. Therefore, there is no basis at law upon which the relief sought by the applicant can be granted.

[35] The power to formulate and implement the monetary policy of Zimbabwe is legislatively vested in the executive. This is what is called policy formulation within the framework of legislation. Without any proper legal basis, this court cannot start to interfere and order the executive to revise or to amend policy decisions. It has no power to order the executive to adopt or expand the policy framework as sought by the applicant. In the formulation and implementation of the monetary policy, the executive factors into consideration several factors, e.g. to promote economic growth and stability; control money supply, interest rates, inflation and managing foreign exchange reserves. This is an area in which the executive has expertise, and the court must exercise deference to it, and only interfere as may be permitted by the law. See *Kirstein v Registrar General & Ors* 2019 (3) ZLR 1275 (H); *Bato Star Fishing {Pty} v Minister of Environment Affairs* 2004 4 SA 490 (CC). The courts can interfere if the policy falls outside the realm of legality.

[36] It must be underscored that the courts do not have untrammelled powers to interfere with the policy decisions chosen by the executive. Judicial power, like all public power, is subject to the rule of law. Perhaps the most obvious constraint on the power of the courts is the doctrine of the separation of powers. What the separation of powers means in a case such as this, is that a court may not order the executive to revise, amend, expand a policy or adopt some measures because it disagrees with the policy, or because it believes that the policy is incapable of addressing the problem it seeks to address. The court does not ask itself the question, "Is this policy right or wrong?" It asks itself whether the policy accords with the principle of legality. The court can only declare a policy invalid on the principle of legality. The task of the court is to ensure

that the policy taken by the executive fall within the bounds of legality as required by the law, and nothing more. See *Duwayne Esau and Others v Minister of Co-Operative Governance and Traditional Affairs and Others* (611/2020) [2021] ZASCA 9 (28 January 2021). In *casu*, it has not been contended or established that s 5.2.1. and s 5.5. of the Operational Guidelines fall outside the realm of legality. Neither has it been sought that they be declared invalid on the back of infringing specific legislative provisions. Even the draft order itself does not seek such a relief. In the result, I take the view that this application has not been properly thought out. It is for these reasons, that either way this applicant was destined to fail.

[37] The applicant has failed to obtain the relief she sought from this court. There are no special reasons warranting a departure from the general rule that costs should follow the result. The respondent is entitled to its costs. The respondent sought costs on a legal practitioner and client scale. Such costs are not for the mere asking. Something more underlies the practice of awarding costs on a legal and practitioner scale, than the mere punishment of the losing party. In other words, a litigant is not mulct with costs on a legal practitioner and client scale for being unsuccessful in the litigation. Such costs require proper explanation grounded in the law. See *Railings Enterprises (Pvt) v Luwo & Ors* 2020 (2) ZLR 51 (H); *Kangai v Netone Cellular (Pvt) Ltd* 2020 (1) ZLR 660 (H). No case has been made for such costs in this case. Costs on a party and party scale will meet the justice of the case.

In the result, I order as follows:

The application is dismissed with costs of suit.

DUBE BANDA J: ……

Shava Law Chambers, applicant's legal practitioners
Kantor & Immerman, respondent's legal practitioners