

TASANGANA MINING SYNDICATE
versus
WELLINGTON ZIBWANI
and
MINISTER OF MINES AND MINING DEVELOPMENT
and
O.I.C KADOMA RURAL POLICE
and
OFFICER COMMANDING ZRP MINERALS UNIT, MASH WEST
and
MINISTER OF LANDS, AGRICULTURE, WATER, CLIMATE AND RURAL
DEVELOPMENT
and
SHERIFF OF THE HIGH COURT

HIGH COURT OF ZIMBABWE
TAKUVA J
HARARE; 14 August 2024 and 24 February 2025

Urgent Chamber application for stay of execution

T. Matiyashe, for the applicants
R. Maposa, for 1st Respondent with K Manyeruke.
No appearance for 2nd, 3rd, 4th, 5th, 6th and 7th Respondents

TAKUVA J: This an application for stay of execution pending an application for rescission of judgement.

BACKGROUND FACTS

The first respondent applied for an interdict under HCH 3126/23 and obtained a default judgment on 4 July 2024. The applicant became aware of the default judgement on 20 July 2024. He has filed this application and another one for rescission of the default judgement under HCH 332/24

The applicant prayed for the order to be stayed pending determination of the rescission appreciation.

The application is opposed by the first respondent who raise two permits *in limine* namely that the application is not urgent and that it has been overtaken by events. In respect of urgency, I agree with the first respondent that the applicant did not treat the matter with urgency in that as to time factor, he was served with the judgment on 20 July 2024, but only filed this application on 02 August 2024, a period of almost two weeks. As regards irreparable

harm it is common cause that the judgement was executed and applicant evicted on 02 August 2024. This matter was argued on 14 August 2024.

There is no dispute that this matter has been overtaken by events. This court can stay or interdict that which was lawfully carried out. Harm has already occurred and the court cannot interdict a past event. In my view urgency, automatically falls away naturally and logically.

In the result it is ordered that:

1. The matter is not urgent
2. The matter be and is hereby removed from the roll of urgent matters
3. Each party bears its own costs

TAKUVA J:

Matiyashe Law Chambers, applicant's legal practitioners
Maposa and Ndomene Legal Practitioners, first respondent's legal practitioners