

BLUE STAR LOGISTICS (Pvt) Ltd
versus
HARARE MOTOWAYS (Pvt) Ltd
and
REGISTRAR OF DEEDS N.O
and
SHERRIFF OF HIGH COURT

HIGH COURT OF ZIMBABWE
TAKUVA J
HARARE, 22 July 2024 and 18 February 2025

Court Application for Registration of a Caveat

G Madzoka, for the applicant
T Mpfu, for the 1st respondent
No appearance for the 2nd and the 3rd respondents

TAKUVA J: This is an application for a Caveat or for the placement of the following. Immovable property registered in favour of the first respondent under judicial attachment; a certain piece of land situate in the district of Salisbury, called Stand 173 Willowvale Township of Willovale measuring 7438 square metres, held under Deed of Transfer No 6366/88 (the property).

Background of Facts

The parties entered into an agreement of sale involving the above mention piece of land. Later a dispute arose regarding transfer of title to the Applicant. Resultantly Applicant issued proceedings under HCH 8108/23 essentially seeking among other matters transfer of the property. The order being sought by the Applicant here is as follows;

“An order placing a caveat on the above mentioned property pending the finalization of the proceedings pending in HCH 8108/23 or in any proceedings involving the parties.”

The full draft order is couched as;

IT IS ORDERED THAT:

1. “The application for placement of a caveat on a certain piece of land situate in the district of Salisbury, called stand 173 Willovale Township of Willovale measuring 7438 square metres, held under Deed of Transfer No. 6366/88 be and is hereby granted.
2. The second Respondent be and is hereby directed to register a caveat on the property referred to in paragraph 1 above within 48 hours of the receipt of this order.

3. The said caveat shall only be uplifted once the dispute pending between the parties in HCH 8108/23 or in any other matter has been finalised and completed.
4. The first Respondent shall, pay the costs of this Application on an attorney and client scale only in the event that it opposes the present application.”

Subsequently on 18 December 2024 the legal practitioner for the first Respondent addressed a letter to the Registrar of this Court in the following terms *inter alia*,

“As you would be aware the Applicant in the matter seeks the registration of a caveat on the disputed property until the matter in HCH 8108/22 has been determined. We wish to advise that the Applicant withdrew its proceedings in HCH 8108/23 and we attach here to a copy of the Notice of the Withdrawal. In our view, the withdrawal of the proceedings under HCH 8108/23 means the matter before his Lordship is now academic. We thought we should place the information before his Lordship for his consideration.”

In my view this development means that essentially it would be incompetent to place a caveat pending nothing. The proceedings are now moot.

In the circumstance it is ordered that

1. The application be and is hereby removed from the roll
2. There is no order as to costs.

Hatinahama and Associates, applicant’s legal practitioners
Gill, Godlonton and Gerans, first respondent’s legal practitioners