

Judgment No. HB 115/08
Case No. HC 50/08

MABEL TATSHI NDLOVU

VERSUS

PATRICK A. NDLOVU

AND

LINDELWE LAURATTA MLOTSHWA

AND

REGISTRAR OF DEEDS, BULAWAYO

IN THE HIGH COURT OF ZIMBABWE

NDOU J

BULAWAYO 31 OCTOBER 2008 AND 6 NOVEMBER 2008

M Ncube, for the applicant

L. Chikwakwa, for the 1st respondent

J Sibanda, for the 2nd respondent

Opposed Application

NDOU J: This is an opposed application for postponement by the first and second Respondents.

The background of this application is the following; On 29 October 2008, as a result of the collapse of my criminal trials, I directed the Registrar to check whether there are opposed matters in which the legal practitioners are ready to argue their cases within short notice. This arrangement was available to the cases where the parties' legal practitioners consent to such set down at short notice as the date of the hearing would be 31 October 2008. It seems that this direction was not properly conveyed to some quarters. In most cases there was no problem as the direction was properly understood. In casu, it seems the applicant set the matter down without the consent of the first and

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second Respondents. The first Respondent was served on 30 October 2008 by affixing a copy of the Notice of set down to the outer principal door at his address of service being No. 632 Nketa 6, Bulawayo. The second respondent was not served as he was barred in terms of the Rules. In respect of first Respondent *Mr Chikwakwa* had previously renounced agency on 23 May 2008. The first respondent approached him again to give him instructions on 31 October 2008 that is on the day of this hearing.

Mr Chikwakwa sought postponement in order to properly assume agency and prepare for the hearing. *Mr Sibanda* sought postponement on account of the short notice. Obviously in his case, he can only be heard on the question of whether he was properly before the court in light of his failure to file his Heads of Argument. I had expected that the issue would not be argued but dealt with by way of consent in light of my aforesaid direction.

Instead, there were arguments as if the matter was properly set down in terms of Order 32 of the High Court Rules, 1971. In the circumstances, the parties failed to utilize the opportunity I had availed them.

Accordingly, the matter is removed from the roll and the applicant will have to set the matter down properly in terms of Order 32.

Cheda and Partners, applicant's legal practitioners

Sansole and Senda, 1st respondent's legal practitioners

Job Sibanda and Associates, 2nd respondent's legal practitioners