

ZIMBABWE RURAL DISTRICT COUNCIL WORKERS UNION

Versus

NYAMINYAMI RURAL DISTRICT COUNCIL

And

W. RUZIWA N.O

ZIMBABWE RURAL DISTRICT COUNCIL WORKERS UNION

Versus

HURUNGWE RURAL DISTRICT COUNCIL

And

DANGAREMBIZI M. NO

HIGH COURT OF ZIMBABWE

MUZOFA J

CHINHOYI, 21 July 2023

Chamber Application

MUZOFA J: I decided to combine the two chamber applications and write a single judgment since the applicants seek the same relief. In the two matters the applicant seek to register the decision of a designated agent for purposes of registration.

Under HC 68/23 the applicant a legal persona was granted a final determination in its favour against the 1st respondent for payment of US\$7 568.30.

Under HC 157/23 an order in the sum of US\$5 874.20 was granted in favour of the applicant by a designated agent, the 2nd respondent in the matter.

The only issue for determination is whether this court should revert to its inherent jurisdiction to register a designated agent's decision for purposes of enforcement.

The application was made in terms of a number of provisions, s14 of the High Court Act [Chapter 7:06] as read with s63 (3a) and s98 (14) of the Labour Act [Chapter 28:01], the common law as provided in s171 (1) (a) and s176 of the Constitution of Zimbabwe.

Before dealing with the merits, I refer to the various provisions relied upon by the applicant. Section 98 (14) of the Labour Act deals with an arbitral award. The 2nd respondent is a designated agent. A designated agent does not issue an arbitral award. Therefore s98 (14) is not applicable in this case.

Section 63 (3a) of the Labour Act does not deal with the registration of a designated agent's decision. It provides for the office of the designated agent and their jurisdiction.

Obviously, the applicant had difficulties in finding the legal basis upon which to approach this court for the registration of a designated agent's decision. There is no provision giving the High Court power to register a designated agent's decision. Thus, the applicant even sought refuge in the common law and the Constitution.

In terms of the Labour Act the only two decisions that can be registered for purposes of enforcement by the High Court is an arbitral award and a judgment of the Labour Court in terms of s93 (5b) of the Labour Act.

The applicant was alive to this position of the law, it then sought to invoke the High Court's inherent jurisdiction to address what it believes is a lacuna in the law. It was suggested that in light of the *Isoquant Investment (Pvt) Ltd c/a Zimoco-v-Darikwa CCZ 6/20* case the High Court can register a designated agent's decision. My reading of that judgment does not confirm the applicants' interpretation of the judgment. The *Isoquant* judgment is not authority that a designated agent's decision can be registered by this court. The relevant part of the judgment to this case is that a designated agent's award does not have to be confirmed by the Labour Court. In my view that did not equate the designated agent's award to an arbitral award. The judgment did not address the issues of enforcement of a designated agent's decision.

In *ZRDCWU-v-Nyanga RDC & 12 Ors*, HH 118/22 two Judges of the High Court settled the issue. The learned Judges had opportunity to deal with matters relating to registration of designated agents' decisions. The Judges opined that there is no lacuna in the law. The Labour Act has provided a way to deal with circumstances such as this. An in-depth analysis of the import of the inherent jurisdiction of the High Court was made. In the final,

the Judges concluded that the High Court cannot exercise its inherent jurisdiction in cases where the legislature has deliberately not given it jurisdiction. More specifically that s176 of the Constitution does not clothe the High Court with jurisdiction to “invent new laws” but to develop already existing law. In this case there is no law providing for the registration of designated agents, therefore there is nothing to develop except to create some law which is the domain of the legislature.

The decision in the ZRDCWU case is persuasive and I associate myself with the sentiments and conclusions therein. There is no need for further consideration of the matter in light of the findings as already set out. They apply to this case.

I mention in passing that the same law firm that filed the chamber applications in the ZRDCWU case (supra) is the same law firm that filed the two chamber applications. Surprisingly there was no mention at all or any reference to the ZRDCWU case. There was no effort even to attempt to distinguish or impugn it.

From the foregoing, I decline jurisdiction to deal with the matter.

The application is dismissed for want of jurisdiction.

Lawman Law Chambers, applicants’ legal practitioners.