



aside the decision of the applicant denying her entry. The magistrate permitted her entry together with her child.

The applicants noted an appeal against this decision by the magistrate in the Supreme Court. The respondent sought and was granted leave to execute that judgment pending appeal. Notwithstanding the order of the magistrate, the appellants deported the respondent forthwith. The respondent filed her application, HC 11000/12, from the holding cells at O R Tambo International Airport in Johannesburg, South Africa. In it she set out the background which I have summarised above. She then took the preliminary point that since her deportation by the Immigration officials was in clear disregard of a valid court order, the applicants have come to court with dirty hands and therefore should not be heard in their application.

People are not allowed to come to court seeking the court's assistance if they are guilty of a lack of probity or honesty in respect of the circumstances which cause them to seek relief from the court. It is called, in time-honoured legal parlance, the need to have clean hands. It is a basic principle that litigants should come to court without dirty hands. If a litigant with unclean hands is allowed to seek a court's assistance, then the court risks compromising its integrity and becoming a party to underhand transactions. As stated by DAVIDSON J in *Underhay v Underhay* 1977 (4) SA 23 (W) at 24E -F:

"It is fundamental to court procedures in this country and in all civilised countries that standards of truthfulness and honesty be observed by parties who seek relief."

After a discussion with counsel for the parties it was agreed that the Principal Chief Immigration Officer has not approached the court with clean hands in HC 10894/12. I therefore make the following order:

1. That the two matters HC 10894/12 and HC 11000/12 be and are hereby postponed *sine die*.
2. That the respondent in HC 10894/12, upon her arrival at Harare International Airport, be and is hereby granted leave to file her application for leave to resume her residence in Zimbabwe in terms of the Immigration Act, [Chapter 4:02].

3. That the applicants in HC 10894/12 be and are hereby directed to consider an application by respondent in HC 10894/12 (applicant in HC 11 000/12) in terms of the Immigration Act, [Cap 4:02].
4. The applicants in HC 10894/12 are to pay respondent's costs in both HC 10 894/12 and HC 11000/12.

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