

TIGER CONSTRUCTION (PVT) LTD

versus

KATIE TURNER

and

RYAN ANTHONY CHENEY

HIGH COURT OF ZIMBABWE

CHINAMORA J

HARARE 4 November 2021

Correction of court order

CHINAMORA J:

This matter was heard by me in open court on 30 March 2021. On that day, Ms L Makumbe appeared for the applicant, while Adv D Ochieng represented the 1st respondent. After hearing argument, I gave an *ex tempore* judgment, which granted an order in the following terms:

In the result, it is ordered that:

1. The application is hereby dismissed.
2. The applicant and 2nd respondents shall pay the applicant's costs of suit on an attorney and client scale jointly and severally, the one paying the other to be absolved.

All along I believed that the above order is what was typed and given to the parties. However, on 4 November 2021, a letter dated 29 October 2021 from the 1st respondent's attorneys, Atherstone & Cook was placed before. The same letter attached a previous letter dated 9 September 2021, which I had not seen, as well as a copy of the typed order, which reads:

1. The application is dismissed.

2. The costs shall be paid by the applicant and the 2nd respondent, jointly and severally, the one paying, the other to be absolved.

Clearly, the order that was typed and collected by the parties does not reflect the order that I granted on 30 March 2021. Rule 29 (1) (b) of the High Court Rules (S.I. 202 of 2021) allows the court or a judge, on his own initiative or upon application by the affected party, to correct an order or judgment “*in which there is an ambiguity, error or omission*” to the extent of such ambiguity, error or omission. As it is obvious that the order as eventually typed omitted the part requiring the applicant and 2nd respondent to pay costs on an attorney and client scale, it is erroneous. In the circumstances, I now correct the order which is on record to reflect what I ordered when the matter was heard on 30 March 2021. The corrected order will read as follows:

“IT IS ORDERED THAT:

1. The application is dismissed.
2. The costs shall be paid by the applicant and 2nd respondents on an attorney and client scale, jointly and severally, the one paying the other to be absolved”.

Kadzere, Hungwe & Mandevere, applicant’s legal practitioners
Atherstone & Cook, 1st respondent’s legal practitioners