GRANDWELL HOLDINGS (PRIVATE) LIMITED
Versus
MINISTER OF MINES AND MINING DEVELOPMENT
And
ZIMBABWE MINING DEVELOPMENT CORPORATION
And
MARANGE RESOURCES (PRIVATE) LIMITED
And
ZIMBABWE CONSOLIDATED DIAMOND MINING COMPANY
And
MBADA DIAMONDS (PVT) LTD

HIGH COURT OF ZIMBABWE
HARARE 9 & 12 May 2023
CHILIMBE J

Interlocutory Application

T. Magwaliba and *C. Daitai* for plaintiff
E. Mubaiwa for 1st defendant
J.R. Tsivama for 2nd and 3rd defendants
L.Uriri for 4th defendant
No appearance by 5th defendant

CHILIMBE J

BACKGROUND

[1] Compared to the epic blood-and-thunder-legal duels daily fought in our courts, an opposed application for the postponement of a matter ordinarily becomes but a tepid scuffle. For that reason, courts will not normally dwell on such simple requests beyond the immediate need to furnish brief reasons for grant or refusal thereof. I will however, for reasons stated hereunder, linger slightly before disposing of the application for postponement of the trial cause now before me.

[2] I begin by noting the following; -firstly, as a general principle, litigation in the jurisdiction is party-driven. As such, the responsibility to progress a matter largely depends on the industry, ingenuity, commitment and sincerity of the litigants to push for a speedy resolution of the real controversy between them. Litigants enjoy, in doing so, the flexibility extended to them by the rules of court, in addition to the supervisory support of the judge or court.

[3] The High Court`s supervisory authority is inseparable from its inherent jurisdiction and powers[1]. A key aspect of which is the court`s power to regulate proceedings before it, as invested by section 171 of the Constitution; defined by section 56 of the High Court Act [Chapter 7:06]; and operationalised by the body of rules of court, practice directions and other instruments.[2]

[4] Further, the length and breadth of the rules, plus the innumerable authorities on adjectival law, underpin one indelible point; -that rules of court pave the pathways to justice with pragmatism. In *Stuttarfords v Madzudzu* HH 33-03, MAKARAU J (as she then was) described this phenomenon in the following terms [at page 4 thereof]; -

> "It is trite that rules are made for the court and no the court for the rules. The ultimate aim of the rules of court is to achieve justice between the parties. Rules of the court should therefore be applied to ensure as far as is possible, that the real dispute between the parties is aired, that the parties are treated on an equal footing, that the proceedings are completed expeditiously and inexpensively and that real justice is done between the parties." [Underlined for emphasis].

[5] The result being that between parties to a dispute on one hand, and the court on the other, lies significant latitude for the speedy resolution of disputes. Put differently, the flexibility reposed in the spectrum of our procedural law is designed (and intended) to simplify, rather than complicate matters before the courts.

[6] This conclusion remains a truism notwithstanding indications or experiences to the contrary. Legal practitioners may need to venture out of the placid confines of their chambers and courtrooms, from time to time (drawing judges out with them in the process), in pursuit of pragmatic solutions to litigation bottlenecks.

[7] An application for the postponement of a matter, is in the simplest of terms, a mere case management proposal[3]. As such, it must be made, responded to, and disposed of, with the above principles in mind. Surely, parties should be able to establish how to best

[1] See In *Martin Sibanda and Anor v Benson Chinemhute and Anor* HH 131/04; *Derdale Investment (Pvt) Limited v Econet Wireless (Pvt) Limited and 2 Others HH 565/14; Machote v Zimbabwe Manpower Development Fund HH 813-15*

[2] SCHREINER JA described rules as an important cog "*in the machinery of justice*" (see *Trans-African Insurance Co Ltd v Maluleka 1956 (2) SA 273* (A) at 278 F-G.)

accommodate any conflicting considerations regarding the processing of their litigation? And all within the space created for them to do so in the rules? That is the import of the Chief Justice`s Superior Court Practice Direction 3 of 2013 ("PD 3-13").

[8] What stops litigants and their legal practitioners from adopting a practical mindset to explore and structure workable case management proposals with ingenuity? Despite its wide supervisory powers, the court cannot, in the majority of instances, front-run parties and adjudicate beyond mandate (embarking "on a frolic of its own"[4]). It is largely directed by the prerogative of litigants.

[9] Secondly, I feel it timely to yet again, refresh on the established principles governing prayers for postponement. For the reason that such requests are inevitably, a matter of daily occurrence in the courts. Yet postponements (the unmanaged ones in particular), insidiously contribute towards the stubborn backlog of cases whose resistance to elimination is well-recognised.

THE APPLICATION FOR POSTPONEMENT

[10] I now turn to the application itself. On the verge of commencement of trial, the defence moved for the removal of the matter from the roll. The request was, according to its sponsors, predicated on the need to accommodate several interlocutory court and chamber applications as well as actions already filed and or contemplated. I will refer to these collectively as "the "ancillary applications" to adopt the term coined by Mr. *Mubaiwa* for the Minister of Mines.

[11] In the main, the defendants (all except fifth defendant) variously indicated that they had filed, and or intended to file applications for- (i) amendment of respective pleas in terms of rule 41 of the High Court Rules SI 202/20 ("the rules"); (ii) a counter claim in terms of rule 38(1) and (iii) the withdrawal of admissions earlier made in terms of rule 50 (8).

[12] A summons commencing action in case number HC 3016/23 was also been issued, on 5 May 2023, on behalf of the Minister of Mines. I will not dwell on this action as the focus is

[3] The term "case management" being ordinary parlance for all arrangements, involving litigants and the court, necessary to facilitate the expeditious disposal of matters before the court. The High Court (Commercial Division) Rules, SI 203-20 "The Commercial Court Rules" offer a useful guide on the principles of case management in rules 16-24 thereof.
[4] See *Nzara v Kashumba & Ors* SC 18-18; *Divvyland Investments (Pvt) Ltd v Chiweza* SC 138-21.

principally on the applications targeting the pleadings in the present trial proceedings. The application for removal of the matter from the roll was resisted by plaintiff. Before dealing with the matter in detail, I set out briefly the background to the claim, inclusive some comment on the litigation history between the parties.

THE PARTIES

[13] The first and fourth defendants-being the parties that have specifically moved for the postponement, will be referred to as the "defendant applicants". The parties will also be addressed individually as follows; -

i. Grandwell Holdings (Private) Limited- *"Grandwell"* or the plaintiff

ii. Minister Of Mines and Mining Development- "*Minister of Mines"* or the first defendant

iii. Zimbabwe Mining Development Corporation- *"ZMDC"* or the second defendant

iv. Marange Resources (Private) Limited- *"Marange"* or the third defendant

v. Zimbabwe Consolidated Diamond Mining Company- "*ZCDMC*" or the fourth defendant

vi. Mbada Diamonds (Pvt) Ltd- *"Mbada"* or the fifth defendant

THE PRIMARY DISPUTE BEFORE THE COURT

[14] Briefly, the facts constituting the underlying claim are as follows; -Grandwell is a peregrine entity domiciled in the Republic of Mauritius. It entered into a joint venture (JV) with the Government of Zimbabwe ("Government"), by written agreement dated 21 July 2009.Under that arrangement, plaintiff took up 50% shareholding in Mbada, being the special purpose vehicle ("SPV") for the JV.

[15] The object of the JV was exploitation of diamond deposits in the Chiadzwa area of Manicaland Province by the SPV. For purposes of that JV, the Minister of Mines represented Government, whilst the rest of the defendants constituted the participants to the JV structure in various capacities which, for purposes of this application, I need not detail.

[16] Again for reasons that need not detain us, the joint venture partnership collapsed sometime in 2016.Plaintiff instituted, on 28 October 2020, the present proceedings seeking contractual damages under various heads, and amounting to about $680 million United States Dollars. That in addition to ancillary relief.

[17] It is necessary to state in passing that litigation associated with the JV has been both prolific and protracted. One can count easily a total of over 14 matters that have played out in the Superior Courts. And from what has been placed before me, clearly, more litigation is in the offing. I can do no more than opine on the need to put this dispute effectively to rest. I also tender this opinion in view of the clearly significant nature of the JV to both the Government (and nation) as host, and plaintiff as investor. That in addition to the nature of the final order which shall be issued in this ruling regarding progressing the matter to closure.

THE PRAYER FOR REMOVAL

[18] The application for removal was made from the bar by Messrs *Mubaiwa* and *Uriri* on behalf of the Minister of Mines and ZCDMC respectively. Mr. *Tsivama* for ZMDC and Marange did not. He however associated himself with the applications and confirmed that both ZMDC and Marange intended to file a similar application for the amendment their respective pleas. A notice to that effect had already been filed and served on plaintiff and copy thereof tendered for the court`s sight.

[19] The main argument proffered by Messrs *Mubaiwa* and *Uriri*, in support of the removal of the matter was simple. The defendants had exercised or sought to exercise, by filing the ancillary applications, a right extended to them by the rules of court. The rules permitted them, as parties to proceedings, to file these ancillary applications at any stage of such proceedings but prior to judgment. The ancillary applications were both timely and necessary.

[20] For that reason, it was submitted that the present proceedings had to be necessarily stayed pending the determination of the ancillary applications concerned. In that regard, the defendant applicants had thus tendered good and sufficient justification for the removal of the matter from the roll. A refusal of the application for postponement would deal the defendant applicants irreparable prejudice.

[21] Both counsel relied on the principle in *GMB v Muchero SC 59-07*. Counsel each submitted that the principle in GMB *v Muchero* effectively interdicted this court from proceeding with the present trial until such time as the ancillary applications had been disposed of. Mr. *Magwaliba* for the plaintiff, disputed the applicability of the guidance in *GMB v Muchero* to the present application. As I understood him, counsel argued that *GMB v Muchero* was concerned with papers filed under the operation of a bar and how the court a quo was deemed to have erred by treating the matter as unopposed.

[22] My comment is as follows; -firstly, it must be noted, as observed by this court in *Roysen Traders v Quton* HH 12-17, per CHITAPI J, that *GMB v Muchero* was not of "general application"[5].It indeed focussed on the operation and effect of a bar. This essentially being the opinion of the Supreme Court in *Lesley Faye Marsh v African Banking Corporation & Anor* SC 4-19. Secondly, what remains, nonetheless, is the fact that proceedings have been instituted seeking to address and or influence the set of pleadings in the present trial proceedings. The real issue is; should this court ignore these ancillary applications, refuse the request for a postponement and proceed with the trial? The question is answered in the succeeding paragraphs.

[23] Mr. *Magwaliba* for the plaintiff submitted that whilst the rules indeed extended a right as stated, that right had to be qualified by propriety. He contended that defendant applicants`prayer was driven by *mala fides*. He supported that averment by reference to previous instances in which defendants had variously in his view, demonstrated the utmost reluctance to have the matter proceed to trial. Counsel therefore challenged the sincerity of the steps taken by the defendants to file the various applications which now formed basis of the prayer for removal from the roll.

THE PRINCIPLES GOVERNING APPLICATIONS FOR POSTPONEMENT

[24] It was agreed by all counsel, that for all intents and purposes, the prayer for removal was an application for a postponement. This view is consistent with the position set out by this court in *Pondo v S HH 218-21* where KWENDA J held [at page 3] that; -

[5] At page 7 of the unpublished judgment.

> "The term 'removed from the roll 'means a postponement sine die (without giving a date)."

[25] For that reason, arguments from both sides dwelt principally on considerations governing the postponement of the matter as set out in the authorities such as *Galante v Galante (2) 2002 (2) ZLR 522 (H)* ;*National Police Service Union & Others* v *Minister of Safety & Security & Others* (2000) ZACC 15; 2000(4) SA 1110 (CC), *Myburgh Transport* v *Botha* 1991 (3) SA 310; *R* v *Zackey* 1945 (AD) 505; *Joshua* v *Joshua* 1961 (1) SA 455, *Apex Holdings (Pvt) Ltd* v *Venetian Blinds Specialists Ltd* SC 33/2015 and *Stonewell Searches (Private) Limited v Stone Holdings (Private) Limited & 2 Others* SC 22-21.

[26] More recently, Supreme Court fortified these principles in *Stonewell Searches (Private) Limited v Stone Holdings (Private) Limited & 2 Others* (supra) where MAKONI JA held thus [at page 8]; -

> "It is settled law that postponement of a matter is not a right obtainable on demand but is at the court's indulgence. As such, it involves an exercise of discretion which discretion must be exercised judicially. This position was enunciated by this Court in *Apex Holdings (Pvt) Ltd* v *Venetian Blinds Specialists Ltd* SC 33/15, where it was held that:
>
> *"An application for the postponement of a matter which has been set down for hearing is in the nature of an indulgence sought, the grant of which is in the discretion of the judge or court before which it is made. The applicant must therefore show that there is good cause for the postponement or that there is a likelihood of prejudice if the court refuses the indulgence being sought."*
>
> In exercising the discretion to postpone a matter, several factors have to be considered cumulatively. In *Persadh v General Motors SA (Pty) Ltd* 2006 (1) SA 455 (SE) para 13, the court succinctly set out the applicable legal principles when a party applies for a postponement, as follows:
>
> *"First, as that party seeks an indulgence he or she must show good cause for the interference with his or her opponent's procedural right to proceed and with the general interest of justice in having the matter finalised; secondly, the court is entrusted with a discretion_as to whether to grant or refuse the indulgence;*

> *thirdly, a court should be slow to refuse a postponement where the reasons for the applicant's inability to proceed has been fully explained, where it is not a delaying tactic and where justice demands that a party should have further time for presenting his or her case; fourthly, the prejudice that the parties may or may not suffer must be considered; and, fifthly, the usual rule is that the party who is responsible for the postponement must pay the wasted costs*." (Emphasis added)

[27] The consistent guidance issuing from the above authorities is that once a matter is set down, its postponement at the instance of one party is a matter of indulgence to be granted at the court`s discretion. That discretion may be summed up by the principal consideration described as "*fundamental fairness and justice"* in *Myburgh Transport* v *Botha* (supra). (See also the Supreme Court`s guidance in *Forestry Commission v Varden Safaris (Pvt) Ltd* SC 58-16; exhorting trial courts to try and accommodate, as far as possible, matters raised prior to judgment). Further, the applicant seeking postponement must have acted timeously, demonstrate bona fides, and be prepared to assuage any prejudice likely to befall the other party.

[28] Before concluding this point, I must quickly address the question of the ancillary applications themselves. Mr. *Magwaliba* was, I think, compelled by circumstance, to launch an attack on the ancillary applications themselves. It was however recognised that this court was not obliged to determine the prospects of success of the ancillary applications.

[29] Those applications were not before us. The court that stood to deal with the ancillary applications would exercise such function. But a consideration of their general import was nonetheless, necessary as part of the process to establish the *bona fides* of the postponement application. In that regard, I believe one must merely determine the standing of these ancillary applications, on the face of it, as defined by the applicable legal principles.

THE LAW RELATING TO AMENDMENT OF PLEADINGS.

[30] I set out below the applicable rules in question; -

i. Rule 41 (10): - amendment of pleadings in general.

> The court or a judge may, notwithstanding anything to the contrary in this rule, at any stage of the proceedings before judgment, allow either party to alter or amend any pleading or document, in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties. [Underlined for emphasis]

ii. Rule 38 (1); -claim in convention.

> (1) A defendant who counterclaims shall, together with his or her plea, deliver a claim in reconvention setting out the material facts thereof in accordance with rules 13 and 36. Provided that with the consent of the plaintiff or if no such consent is given, with the leave of the court, a claim in reconvention may be filed and delivered at a later stage. [underlined for emphasis]

iii. Rule 50 (8): - withdrawal of admissions

> (8) The court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.[6]

[31] It is clear from the above that the latitude extended to a litigant who elects to amend pleadings is reasonably wide and clearly defined in the rules. This same observation was made in *Cheney v Cheney* HH 78-18. In that decision, CHITAKUNYE J (as he then was), held as follows [at page 4]; -

> "A litigant can thus amend or alter their pleadings at any stage before judgement. The court or judge is granted wide discretion on whether to grant the amendment or not. Such discretion is guided by the need to ensure that the real issue between the parties is resolved and that the amendment does not prejudice the other party which may not be compensated by an order of costs."

[32] I sought clarity from Mr. *Magwaliba* on how a legitimate intention to exercise rights extended by the rules could be exposed as mere perfidy designed to frustrate the proceedings. In effect, counsel's response was to urge the court to draw an inference from the surrounding circumstances of the matter. In his own words, Mr. *Magwaliba* dismissed the applications as

[6] See also *Eastern Highlands Electrical (Pvt) Ltd v Gibson Investments (Pvt) Ltd* SC 26-02.

part of “a grand choreography to sabotage the trial”. I am unable to agree with counsel, with respect, as no specific facts were placed before the court to demonstrate clear existence of *mala fides.*

THE QUESTION OF PREJUDICE

[33] I return to conclude the point on the considerations that must guide a court seized with an application for postponement. In doing so, I draw attention and emphasis to the last two (out nine) grounds cited in *Myburgh Transport* where the court held as follows at 315 F-G; -

> “(8) Considerations of *prejudice* will ordinarily constitute the dominant component of the total structure in terms of which the discretion of a Court will be exercised. What the Court has primarily to consider is whether any prejudice caused by a postponement to the adversary of the applicant for a postponement can fairly be compensated by an appropriate order of costs or any other ancillary mechanisms. (Herbstein and Van Winsen *The Civil Practice of the Superior Courts in South Africa* 3rd ed at 453.)
> (9) The Court should weigh the prejudice which will be caused to the respondent in such an application if the postponement is granted against the prejudice which will be caused to the applicant if it is not.” [Emphasis added]

[34] Mr. *Magwaliba* submitted as follows in paraphrase. A postponement of the trial would usher considerable prejudice to plaintiff. Counsel also dwelt at length on incidents which he argued demonstrated clear recalcitrance to progress the matter on the part of the defendants generally. The delay in concluding the matter prevented plaintiff from accessing the remedies to wrongful conduct on the part of the defendants in the JV. The plaintiff`s claim- in excess of USD$600 million -was significant. The postponement sought was thus destined to deny plaintiff the right to a fair hearing within a reasonable time. Further, plaintiff’s witnesses had travelled from abroad on three occasions and all to plaintiff`s expense. Plaintiff’s frustration was thus extreme. The prejudice which threatened plaintiff was therefore quite considerable. It could not be properly compensated by a mere order of costs.

[35] I summarise the response on behalf of both defendant applicants as follows. The plaintiff`s suit was couched in "a stable currency" -the United States Dollar. It was also backed by a claim for interest and costs at a higher scale. There was therefore no basis for plaintiff to fear a diminution of value pending resolution of the dispute. If plaintiff succeeded in its suit, it would receive its dues in full. The ancillary applications, on the other hand, were an unavoidable expression of the defendant applicant`s rights at law. A refusal of the postponement would amount to effective denial of defendant applicants` right at law. Such denial would constitute a prejudice far greater than that which plaintiff stood to incur if the trial was deferred. In any event, the plaintiff`s woes could be sufficiently mitigated by an award of costs on an ordinary scale, which costs were tendered by both defendant applicants.

[36] With respect to counsel, neither side approached this matter with the mindset pre-requisite to fruitful case management solutions. In *Myburgh*, the court drew attention to the need for flexibility of approach to enable the court to neutralise, as far as possible, any prejudice likely to befall the parties affected by a postponement. This being the pragmatism and rationality necessary to colour the conduct of litigation referred to at the commencement of this ruling. It being the same pro-activeness recommended by decisions such as *Forestry Commission v Moyo* 1997 (1) ZLR 254 (S) at 259 A-B, where the court held that; -

> "Insofar as the High Court Rules are concerned, r 4C (a) permits a departure from any provision of the Rules where the court of judge is satisfied that the departure is required in the interests of justice. The provisions of the rules are not strictly peremptory; but as they are there to regulate the practice and procedure of the High Court, in general strong grounds would have to be advanced to persuade the judge to act outside them." [Underlined for emphasis]

[37] The implication of all such is that it is the parties themselves who must place sufficient facts and basis, through proposals, on how to address any prejudice identified. Further, to my mind, in the present matter, the request for, and resistance to, the application for a postponement ought not have assumed the form of an "either or" affair. That is the very essence of the rules, decisions and as noted earlier- PD 3-13. Additional proposals could have accompanied the application. In the present instance, none were demanded and none were tendered.

[38] Did the parties, for instance, reflect on the feasibility of seeking a departure from the rules for the ancillary applications to be dealt with on an urgent basis? Or that arrangements be made for the ancillary applications to be heard by the trial court? In saying this I must not be misunderstood as (a) expressing some sort of keenness to intercept and deal with such matters, nor, (b) insisting that parties ought to have forged a compromise at all costs. All I am emphasising is that reasonable proposals could have been contrived, explored and exchanged as between the parties and the court.

DISPOSITION

[39] In the absence of demonstrable *mala fides* on the part of defendant applicants, their right to pursue various amendments to the pleadings becomes incontrovertible. As such, that right suffices, for purposes noted in *Galante and Galante* (supra) and other authorities cited above, for the granting of the request for postponement. I may also state herein that the underlying reason for the postponement relates to institution of a set of separate proceedings which target the pleadings before the trial court. This distinguishes the present application from those requests for postponement motivated by lack of preparedness, absence of counsel, or desire to secure a different legal practitioner [7].

[40] The applications targeting the pleadings were neither launched from the bar, nor after commencement of trial. Which renders them proceedings not before the trial court and thus set to be determination separately. The prejudice that would befall defendant applicants stands as considerable if their prayers before the court are not pursued to conclusion. Indeed, I agree with Messrs *Mubaiwa* and *Uriri* that the administration of justice could be placed at risk of irreconcilable conflict and confusion should the trial and applications proceed concomitantly but separately. The application for removal from the roll must therefore succeed.

[41] As a footnote, I must comment on a complaint raised by Grandwell`s legal practitioners and copied to the Registrar for my attention in a letter dated 12 May 2023.I received the letter just as I was about to depart for court to deliver this ruling. I invited, before handing down

[7] See *Roysen Traders (Pvt) Ltd T/A Alliance Ginneries v Quton Seed Company (Pvt) Ltd HH 12-17; Nkala v Madiba NO & Anor HB 17-20.*

judgment, comment in court from Mr. *Daitai* for plaintiff, and Mr. *Uriri* for fourth defendant (on whose client the complaint was trained). I note the following;-(i) the letter now forms part of the record. (ii) Mr. *Uriri* gave what I considered, for my purposes, a plausible explanation. And that (iii) Mr. *Daitai* did not move the court for a specific intervention. I will therefore leave matters at that and proceed to dispose of the application.

THE ORDER

[42] PD 3-13 requires, by Paragraph 8 thereof, a court removing a matter from the roll or postponing it *sine die*, to issue accompanying directions of a case management nature, together with timeframes governing such guidance. In the present matter, as noted, the applications which have necessitated the removal of this matter from the roll were not associated, from either side, with indicative proposals on case management. As such, the parties shall be surrendered to the prescription of PD 3-13 and the rules of court for further guidance.

COSTS OF SUIT

[43] An ordinary tender of costs was made by both Messrs *Mubaiwa* and *Uriri* for the defendant applicants. Mr. *Magwaliba* sought punitive costs. I am inclined to agree with Mr. *Magwaliba* and for the following reasons. Firstly, whilst noting that delay or negligence should not prejudice a party who intends to apply for an amendment of pleadings, the same considerations should be relevant for purposes of determining costs. (See See *Commercial Union Assurance Co. Ltd* v *Waymark NO* 1995(2) SA 73 where it was held at 77F -I, that; - "The amendment should not be refused simply to punish the applicant for neglect." *And* "A mere loss of time is no reason, in itself, to refuse the application.") In this matter, the notification of an intent to take this route by the defendant applicants was belated, the earliest of such coming as it did on 3 May 2023.

[44] Yet the trial date of 9 May 2023 had been agreed on by all parties on 12 April 2013. The defendant applicants appeared to wait until the gourd was just about to touch the lip. Secondly, whilst the rules do accord a party the opportunity to file applications for amendment of its plea right at the very last moment, such election can nonetheless cause prejudice to the other party. The plaintiff is a peregrine as noted. Its witnesses have had to

travel from abroad in order to attend trial. The defendant applicants, viewed from the perspective of common interest, have conducted themselves with less than the requisite degree of diligence in the past and I believe that a punitive order of costs is warranted.

It is accordingly ordered that '-

1. Matter be and is hereby removed from the roll.
2. The matter will be governed by the provisions of the Chief Justice`s Superior Court Practice Direction 3 of 2013 and the resultant obligations stated therein.
3. The first and fourth defendants to meet plaintiff`s costs jointly and severally, at the attorney client scale, the one paying and the other being absolved.

Magwaliba & Kwirira-plaintiff`s legal practitioners
*Civil Division of the Attorney General`s Office*- 1st defendant`s legal practitioners
Sawyer & Mkushi-2nd and 3rd defendant`s legal practitioners
Caleb Mucheche & Partners-4th defendant`s legal practitioners

CHILIMBE J_____ [12/5/23]