CENTENARY TOBACCO (PVT) LTD

Versus

CENTRAL MECHANICAL EQUIPMENT DEPARTMENT (PVT) LTD

High Court of Zimbabwe

Commercial Division

Chirawu-Mugomba J

Harare, 30 0ctober, 4, 6 & 9 December 2024

D. Chemhere, for the applicant

M. Moyo, for the respondent

UNOPPOSED COURT APPLICATION – SETTING ASIDE OF A CASE MANAGEMENT ORDER

CHIRAWU-MUGOMBA J: This matter was placed before me on the unopposed motion roll for the 30th of October 2024. Despite the application being unopposed, I directed that the legal practitioners file heads of argument in support of the order sought and thereafter that judgment would be reserved. The reason is very simple. The applicant is seeking the setting aside of an order obtained by consent at a judicial case management meeting, "hereinafter the 'meeting" in terms of R19 (6) of the High Court (Commercial Division) Rules, 2020) (hereinafter the 'rules'). The Commercial division of the High Court jealously guards its processes as espoused in the rules. The meeting is literally the heart and soul of the division and it became imperative to consider the matter carefully as its implications are huge.

Having stated the above, it is also critical that I give a history of the matter and also summarise the application. I stand at a vantage point given the fact that I dealt with the summons matter under HCHC 590/23 that resulted in the order that the applicant seeks to have set aside. In that matter, the applicant issued summons against the respondent seeking release of 248 000 litres of diesel held by the respondent, alternatively payment of USD 368 900, loss of profit in the sum of USD 2 827 500, loss of value of USD 24 658 for money paid to the National Oil Company of Zimbabwe and costs of suit on a legal practitioner-client scale. Two meetings were convened until the final one of the 13th of May 2024 which resulted in the issuance of the order by consent. Before that date, two other case management orders were issued in the matter. The first one is of the 19th of January 2024 that reads as follows,

1. The special plea in abatement is rolled over for trial in the event that the matter goes for trial.
2. By the 2nd of February 2024, it is directed as follows:

   a. The plaintiff shall obtain from ZIMRA a letter clarifying whether or not the plaintiff made payment

      of the amount levied against it and whether or not there is still any outstanding amount to be paid by either the plaintiff, defendant or both in connection with the notice of seizure ref no. B/E, C89 of 09/02/23.

   b. The letter from ZIMRA shall be filed by the plaintiff's legal practitioners.

   c. Upon receipt of the letter, the plaintiff and defendant shall hold a round-table conference with a view to settling the matter and the minutes shall be signed by both parties and filed by the plaintiff's legal practitioners.

   d. Should the parties settle the matter, a deed of settlement shall be filed.

3. In the event that no settlement is reached, another case management meeting shall be convened.

4. If any party fails, refuses or neglects to abide by these directives, the court may act in terms of s18 (2) of the High Court (Commercial Division) Rules of 2020 without further notice.

Another case management order was also issued on the 21st of March 2024 as follows,

1. By the 6th of May 2024, the parties are directed to:-

a. Upload letters to and from ZIMRA that have not yet been uploaded.

b. b. Comply with paragraph 2(c) of the case management order dated the 19th of January 2024 and file minutes of the meeting.

All these orders were issued after meetings and discussions with the litigants and their legal practitioners. The order issued on the 13th of May 2024 reads as follows:-

1. The matter is settled on the following terms:-

2 (a)The following Directors of the plaintiff shall by the 17th of May 2024, provide surety and personal guarantees to the defendant for the sum of USD$ 406, 720 (Four Hundred and Six Thousand, seven hundred and twenty United States dollars only):-

a. Hugh Sibanda b.

b. Nyika Kupara

c. Jacob Sibanda

b. Upon receipt of the surety and personal guarantees, the defendant shall, within seven (7) days, release to plaintiff, two-hundred and forty-eight thousand litres of diesel without fail.

2. The plaintiff has already acknowledged owing ZIMRA the following sums that arise from this case and has entered into a payment plan with ZIMRA: - a. ZWL 314, 205, 063, 35 (ZIG equivalent) b. USD$ 2, 100, 900 C. USD$ 1, 050, 450

3. Each party shall bear its own costs.

In *casu,* the applicant initially communicated with the respondent's legal practitioners stating its reasons for seeking the setting aside of the order. The respondent's legal practitioners initially indicated that they would not be opposed to such a course of action. Later, they indicated that the respondent was opposed to the relief being proposed. After seeking and being granted condonation, the applicant proceeded to file the current application. Again the

respondent initially opposed it through the filing of a notice of opposition and opposing affidavit. Later on the parties found each other and they entered into a deed of settlement and signed an order by consent. Legal practitioners for both parties appeared at the unopposed hearing perhaps to support the granting of the order being sought.

The main contention of the applicant in seeking to set aside the order is that the deed of surety and personal guarantees were not agreed to. Jacob Sibanda and Nyika Kupara were no longer directors. Further that the applicant and respondent were not agreed on the interpretation of the order. On that basis, applicant was therefore seeking its setting aside and also that the matter reverts to the case management stage.

In the heads of argument, the applicant crystallised the legal issues as follows.

a. Can a case management order granted in terms of R18 of the High Court (Commercial Division) Rules be set aside?
b. If so, in terms of which rule?

Applicant submitted that there is no specific rule that deals with setting aside of orders under R18. The procedure for setting aside judgments obtained by consent is found in R19(4). This however is limited to pre -trial case management processes. In other words, there is a distinction between R18 and R19 processes. In such a scenario, the rules provide under R4(2) that in the event of a lacuna, resort should be had to the High Court of Zimbabwe Rules of 2021. These rules provide in R29 that a judgment can be corrected, varied and rescinded by a court or a Judge *mero motu* or upon application by an affected party. Additionally, the commercial division as an extension of the

High Court has power to regulate its own processes as per s171of the Constitution- *S. Gumbura,* SC-25-21, and also in terms of S176 in the interests of justice- *Chandida vs. Adaareva,* HH-103-23. A court can also act to regulate its processes where there is a *lacuna, Barbarosa De Sa vs. Barbarosa De Sa,* SC-34-16. The applicant therefore implored the court to utilise R4(2) and make use of R29 of the High Court Rules. If this argument could not find favour with then the court should utilise its inherent powers to set aside the order. The basis is that the order cannot be enforced. A court is duty bound to scrutinise an order that is as a result of a deed of settlement or consent by the litigants- *Mahomed vs. Mahomed Dudhia and anor,* HH-140-18. This cases also addresses the issue of an order that is *in brutum fulmen,* such as the one in *casu.*

The respondent's heads of argument largely mirror the applicants'. In my view, the applicant correctly captured the critical legal issue.

The rules do not have a comprehensive definition of case management. In the interpretation section in R3(1), it is defined as follows, *case management means judicial case management as described in sub rule 10.* This referenced rule reads, *the judicial case management shall include the processes set out in R17.*

There is something first and foremost to be said about the Commercial Division in relation to the management system. To that extent, I am indebted to MAFUSIRE J who so eloquently expressed this in *Blakey Investments(pvt) Ltd vs. Delta Beverages (pvt) Ltd and ors,* HH-388-23. He postulated as follows,

> "The Commercial Division of the High Court of Zimbabwe was established in 2022 in accordance with s 46A of the High Court Act [Chapter 7:06]. It opened its doors to the public on 6 May 2022. It is governed by, among other things, its own set of Rules2 as well as the High Court Rules, 2021 [SI 202 of 2021]. The broad rationale for establishing specialist divisions of a court is, among

other things, to streamline and improve citizens' right of access to justice. With the Commercial Division in particular, it is the Judiciary's contribution to the ease of doing business in Zimbabwe in order to improve, among other things, the investment climate. The conception of this Division was with a view to quicken the process of adjudication of disputes of a commercial nature by, among other things, streamlining the rules of procedure. It is a Division which, in the determination of the cases, is guided by certain principles and values.

In the Second Schedule to the Rules of the Commercial Court is a list of the core values or attributes. Relevant to this discourse are the values listed in Para 3(a) ('reduction and simplification of processes'), 3(b) 'curtailment and minimisation of costs and time', 3(f) '… … increased efficiency', 3(g) 'new rules of procedure' and 3(h) 'adaptability'. Rule 4(3) requires that regard be had to these values in administering the Rules. Though the values themselves are not part of the Rules, nonetheless, it is expressly stated in the Second Schedule that the adjudication of disputes by, and the operation of the Division shall be guided by these values. Para 1 of the Second Schedule states that the establishment of the Commercial Court is designed to improve the ease of doing business in line with the criteria set by the World Bank so as to contribute towards the national effort in attracting local and foreign direct investment. Evidently, this is in line with international best practices.

Thus, the Commercial Court can be regarded as some kind of 'half-way house' between the strict formalism of the other divisions of the High Court and the liberalism of the alternative dispute resolution mechanisms such as arbitration. The Rules of the Commercial Division have gone some way in giving effect to its ethos, philosophy and character. For example, the concept of requesting, let alone applying, for further or further and better particulars to a pleading, a huge procedural step in the other divisions of the High Court, is expressly banned3. Litigants in the Commercial Division are required to place, right at the onset, together with their statements of claim or defence, the summary of their evidence and the list of the documents to be relied upon.4 This is a whole new and radical concept, a new dispensation and, indeed a revolution in pleading. Fundamentally, and perhaps to emphasise the requirement for a quick disposal rate of cases, in terms of r 17(2) the life of a case in the legal system is truncated to no more than ten to twelve months. Time limits for the filing of pleadings and the stages in the adjudication process are severely trimmed. For example, heads of argument in opposed matters should be no more than ten pages long.5

Undoubtedly, the above values or attributes are aspirational. Understandably, some cases will refuse to fit in that mould. However, it is incumbent upon the court to try and give effect to the philosophy and thrust of the Rules……………………"

Case management is covered in rules 16-21 showing its importance. I will reproduce these for the sake of posterity. The broad heading is pre-trial case management and scheduling of hearings.

PRE-TRIAL, CASE MANAGEMENT AND SCHEDULING OF HEARINGS

16. Allocation of cases

(1) The registrar shall, unless the circumstances do not permit, within a maximum of 3 (three) days after the closure of pleadings, cause a case to be manually or electronically allocated to a specific judge for the purpose of case management and case mapping.

17. Management of cases generally to be determined by the presiding judge

(1) Judicial case management shall comprise the following processes—

(*a*) after the closure of pleadings, the record of the commercial dispute shall immediately be allocated to a presiding judge and in accordance with a roll kept in the registrar's office.

(*b*) upon receipt of the record aforesaid, the presiding judge shall allocate a date for an initial case management conference to deal with *inter alia*—

(i) the scheduling of the matter;
(ii) the setting of deadlines for the filing of any further documents and or pleadings;
(iii) agreeing on the set down dates for the hearing of the main dispute or any interlocutory matters;
(iv) the giving of general directions in relation to the dispute

(*c*) at least one more pre-trial case management conference may be scheduled before a judge the purpose for which shall be to try and resolve one or some or all of the issues in dispute before going to trial or a full hearing on applications;
(*d*) if no settlement is reached at the second pre-trial case management conference the dispute shall proceed to trial or hearing of the application, on issues identified by the parties and agreed to by the presiding judge;
(*e*) at any of the case management conferences the presiding judge shall deal with all aspects of the matter, including all interlocutory applications;
(*f*) the presiding judge shall after each case management meeting issue a case management order in Form No. CC 5 in the First Schedule hereto.

A dispute shall proceed and be determined within a period of ten (10) months, and in any event not more than twelve (12) months, from the date of commencement.
(3) Without derogation from any provisions of these rules in relation to case management, a judge to whom a matter has been allocated may at any time give directions as to how he or she wants the matter to proceed and may call the parties to his or her chambers to give directions.

18. Power to make and give directions for disposal of suits

(1) A judge shall, within ten (10) working days after receipt of the record, on his or her own motion direct the registrar to cause the parties to the proceedings to appear before him or her, for the purposes of case management, in order that he or she may make such order or give such directions in relation to any case management as well as any interim application which the parties may have filed or intend to file as the judge deems fit, in order to achieve the just, expeditious and economical disposal of the dispute.

(2) Where any party fails to comply with any order made or direction given by the judge under subrule (1), the judge may dismiss the suit, strike out the defence or counterclaim or make such other order on the papers filed of record as he or she considers just.
(3) The judge may, in exercising his or her powers under sub rule (2), make such order as to costs on the papers filed of record as he or she considers just.
(4) Any order or direction given or made against any party who does not appear before the judge when directed to do so under subrule (1), shall be deemed a default judgment and may only be set aside or varied by the judge on good and sufficient cause shown upon application made within ten (10) days of the order being made or direction being given and on such terms as the judge considers just.
(5) Rule 15 shall *mutatis mutandis* apply in respect of the setting aside of a default judgment.

19. Pre-trial case management hearings to be held when directed by a judge
(1) Notwithstanding Rules 16, 17 or 18 above, at any time before any case is tried, the judge may direct parties to attend a pre- trial case management hearing to deal with any matters or issues arising in the suit or proceedings.
(2) At such a pre-trial case management hearing, the judge may consider any matter arising from the pleadings filed of record, including the possibility of a settlement of all or any of the issues in the suit or proceedings and may require the parties to furnish the judge with any such further information as he or

she considers necessary and expedient, and may give all such other directions as he or she considers necessary or desirable for securing the just, expeditious and economical disposal or curtailment of the suit or proceedings.
(3) The judge may, having given directions under this Rule or Rule 20, on his or her own motion or upon the application by any party, if any party defaults in complying with any such directions, dismiss such suit or proceedings or strike out the defence or counterclaim or enter judgment or make such other order on the papers filed of record as he or she considers fit.

(4) Any judgment or order made under subrule (3) shall be deemed a default judgment and may be set aside on good and sufficient cause shown and on such terms as the judge considers just, on the application by the party against whom such judgment or order is made, and the provisions of Rule 15 shall apply to the extent possible.
(5) The judge may at any time during a pre-trial case management conference where the parties are agreeable to a settlement of some or all of the matters in dispute in the suit or proceedings, record such agreement as an order of court or where the matter is settled in full, enter judgment in the suit or proceedings or make such other order to give effect to the settlement as may be required.
(6) An order by consent issued under sub rule (5) shall not be set aside save in exceptional circumstances and on good and sufficient cause shown and the provisions of Rule 15 shall apply to the extent possible.

20. Notification of case management pre-trial conference set down
(1) A party to the proceedings shall be informed by notice in Form No. CC 12 of the date and time appointed for the holding of a pre-trial case management conference which shall be held in their physical presence or via electronic video link.

21. Failure to appear of one or more parties
(1) Where at the time appointed for the pre-trial case management conference, one or more of the parties or witnesses, fails to attend, the judge may—
(*a*) dismiss the suit or proceedings;
(*b*) strike out the defence or counterclaim;
(*c*) enter judgment;
(*d*) make such other order as he or she considers fit on the papers filed of record.
(2) An order made by the judge in in terms of this rule may be set aside on the application of the party affected thereby on good and sufficient cause shown within ten (10) days from date of the order, and on such terms as the judge considers fit and just and the provisions of Rule 15 shall apply to the extent possible.
(3) Subsequent to the first adjournment, if all parties fail to attend the pre-trial conference, the court or judge shall remove the suit from the roll, with such order as to costs as it or he or she deems fit and just.

In light of the inherent powers of a court to regulate its own processes as per S171 of the Constitution, a practice has emerged in the Commercial Division of notifying the litigants of the necessity of having them attend and if it is a juristic person, it must be represented by a person who can make decisions. The litigants are also warned of the consequences of not attending the meeting. This is done through a letter that is dispatched simultaneously with the notice of hearing. The reason for requesting attendance of decision makers for juristic persons is because the aim of the meeting is first and fore

most to explore a settlement and/or to deal with interlocutory issues. This is generally what R17 provides. It is also imperative to state that the main driver of the process is the presiding Judge who is bestowed with discretion on dealing with the matter. At the meeting, the Judge explains to the litigants the purpose of the meeting and underscores the importance of settling commercial disputes speedily in line with the ease of doing business and as guided by the second schedule to the rules. The Judge also stands at a vantage point because in terms of R 8, the summons shall be filed along with the declaration and the summary of evidence including documents or as commonly known, 'discovered' documents. Rule 12(2) behoves a litigant who files a plea, exception, special plea or other answer to the plaintiff's claim to also file an indexed bundle of all relevant and material documentary evidence and a summary of evidence that the defendant relies on. A Judge therefore has a broad overview of the case based on the pleadings. S/he is in a good position to discuss the case with all the parties and pointing out the relevant issues. A Judge can also request for further documents as happened in HCHC 590/23 wherein documents were requested from ZIMRA to clarify certain issues. This manner of handling cases in the division has resulted in many disputes being settled though rarely at the first meeting. Let me hasten to state that **no litigant is forced or coerced to settle a matter at the management stage. All litigants retain the right to be heard at trial and a judgment rendered on this basis** (*my emphasis).* Indeed some matters have proceeded to trial. In many instances, parties who have opted for trial actually settle the matter just before trial. Even when an order is generated referring the matter to trial, parties are still encouraged to keep engaging. Let me also add that unlike in the general High Court division where a Judge who presides over a pre -trial

conference cannot preside over the trial, in the commercial division, the Judge to whom a matter is allocated to in terms of R16 must complete it. This means the Judge presides over the meeting and the trial should the matter proceed to that stage. It is therefore a delicate balance of a Judge not exhibiting any biases at the meeting because if no settlement is reached, they still preside over the trial. Judges in the division are sharpening their skills and expertise as more and more commercial disputes are being filed.

Rule 18 states in the - heading that it is about the power to make and give directions for disposal of suits. It does not even confine itself to action matters. It just states that upon receipt of a record (be it action or application), the Judge on their own motion cause the parties to appear before then for the purposes of case management. R18 (1) also specifically bestows upon a Judge wide powers to give directions in relation to case management, deal with any interim application (such as a special plea for instance). The purpose as stated is to achieve the **just, expeditious and economical disposal of the dispute.** (*my emphasis*). This should be read together with R16(2) that gives a time line of completion of matters within a period of ten months and not more than twelve months from the date of commencement.

Rule 18(2) further expands the powers of a Judge by laying bare the consequences of non-adherence to directives or an order given under R18(1) unlike R17 which is silent. A Judge may dismiss the suit, strike out the defence or counterclaim or make **such other order on the papers filed of record as he or she considers fit and just.** Critically, the pleadings filed, including the claim, the plea or other answer and the summaries of evidence and documents play a role in this exercise of discretion should a Judge make such other order . In my

view, a Judge can even dismiss or grant a claim based on the papers. Whilst this may be viewed as being an interference on the right to be heard, it is not unheard of entirely in this jurisdiction. Courts have often granted applications for summary judgment based solely on the pleadings filed as an acceptance of the fact that the defendant has no defence and has filed papers solely for the purpose of delay. Rule 18(3) precisely recognises that a Judge acting in terms of R18(2) will be exercising her or his power and can make an order of costs based also **on the papers filed of record.** *(my emphasis).* Therefore there is absolutely in my view nothing remiss of a Judge acting as specified without even hearing the other party but solely relying on papers filed of record.

As rightly pointed by the applicant and respondent, if a party does not appear as directed in terms of R18(1), that shall be deemed as a default judgment and the remedy is for them to apply for its setting aside or its variation on good and sufficient cause shown within a period of ten days from the date of the order or direction. Rule 15 which deals with setting aside of default judgments is applicable should a litigant exercise their right to take this course of action.

Moving on to R19, its heading is –pre-trial case management hearings to be held when directed by a Judge. The applicant interprets this to mean that it only applies to the pre-trial period, in other words, the period between referring the matter to trial and the actual trial. In my view, that is erroneous. It is a view I also once held but a closer examination shows that the critical considerations are, **notwithstanding Rules 16, 17 or 18 at any time before any case is tried,** a Judge can direct parties to a attend a pre -trial case management hearing. In my view, a matter may proceed to a full pre -trial

case management stage without resort to R17 and 18. Again the discretion lies with the Judge. The aim remains the same, that of speedy resolution of commercial disputes. The major difference between R18(2) and R19(3) on remedies for non-compliance is that in the latter, a Judge may act on their own motion or **upon application by any party.** *(my emphasis).* The other powers remain as per R18(2). Rule 19(5) provides for a settlement to be recorded and the entering of judgment or the making of an order to give effect to it. Rule 19(6) is critical in that it provides that an order issued by consent under R18(6) shall only be set aside in exceptional circumstances and on good and sufficient case shown.

Rule 21(1) lays out consequences of failure to attend by one or more of the parties or witnesses. The difference with the consequences of failure to comply as set out in R18(2) is that in R21(1) (c), the Judge may in addition to other powers, enter judgment against a party. In my view however, as already stated there is nothing barring a Judge from entering judgment on the papers under R18(2). Rule 21(2) is similar to R18(4). Rule 21(3) covers a situation where all parties fail to attend the pre-trial meeting and the consequence is that the court or Judge shall remove the matter from the roll.

In the main matter that resulted in the impugned order, the case went through all the stages of management. The persons who attended were all presumably ones who had authority to make decisions. The parties were all represented by legal practitioners. Given this scenario, should the order obtained by consent be set aside? I also state this in the context of the seriousness with which the case management order is taken. Under R44(3), subject to the provisions of the High Court Act (Chapter : *7:06*), no appeal shall

lie from an order or directive issued at a case management meeting. I do not agree that the rules have a *lacuna* that is to be filled in by resort to R29 of the High Court Rules of 2021. Resort to that Rule is also in an entirely different context. As stated, the management of cases is a process peculiar to the commercial division. The considerations under R29 do not apply in my view to an order obtained through management. In any event, the named diretors who are said to have left did so after the issuance of the order. Ironically, the applicant applied to this court to be condoned so that it could file an application for setting aside of the order under R19(6). Even the heading of the application cites this rule. It is insincere for the parties to now claim that the rules are silent. In my view, the order was obtained under a process of case management and by consent before trial. Rule 19(6) therefore applies.

The two sole considerations remain that (1) the circumstances must be exceptional and (2) there must be good and sufficient cause. It is unfortunate that the parties did not address this aspect in their heads of argument. I am indebted to CHIKOWERO J for the following passage in *Chibage and anor vs. Prosecutor General and ors,* HH-397-23 as follows,

> "In S v Jussab 1970 (1) RLR 181 (AD) the appellant had broken a condition in respect of which a sentence of imprisonment had been suspended, by being convicted subsequently by a magistrate of an identical offence. The magistrate had refused to suspend further the suspended sentence, in terms of S 382(3) of the Criminal Procedure and Evidence Act [Chapter 31] (the equivalent of S 358(7) of the Criminal Procedure and Evidence Act [Chapter 9:07] It was argued, for the appellant, that good cause had been shown for the further suspension of the suspended sentence. At 185C D the Court cited with approval the case of Richard William Montgomery v The Queen (judgement No. AD 153/69 (not reported), where QUENET JP said: "In the context of Section 382(3) of the Criminal Procedure and Evidence Act [Chapter 31], the word 'good,' in my view, means 'sufficient' or 'satisfactory'. Having said that, I would draw attention to the remarks of Sir JAMES ROSE – INNES, in Cohen Brothers v Saumuels, 1906 T.S 221, at p.244. The learned judge considered it 'hardly possible, and certainly undesirable' for the court to attempt to define 'a good cause'- that was something the Court had to decide in the light of the circumstances of each case."

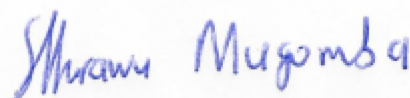
The key take away is that each case should be decided on its own merits in light of the circumstances. There is no one size fits all approach. The impugned order speaks to specific persons providing security. Two of these are said to be no longer directors. The parties are said not to be in agreement over the interpretation of the order. The order allegedly cannot be enforced. Can these be said to be exceptional circumstances that warrant the order to be set aside? Has good and sufficient cause been shown? In my view, the applicant has failed to meet the expected threshold. As already discussed, the management system is a thorough process and litigants are expected to take court cases seriously. The applicant was the *dominus litis* in HCHC 590/23. I did not read the founding affidavit to suggest that the persons who attended the meetings on behalf of the applicant including the legal practitioner were imposters and that they had no authority to act. The management process itself is rigorous as explained above. The applicant seeks to clutch at straws and suggest that two of the named directors in the impugned order have since left yet absolutely no proof has been tendered. There is no allegation that at the time of the granting of the order, they were not directors. There is no suggestion that the applicant was coerced into consenting to the order. The applicant is also silent on the other paragraphs of the order. It would have been prudent in my view for them to state whether or not they are in agreement or disagreement with same. The lingering question then becomes this, is the applicant unhappy with the first paragraph only or the rest of the order? The applicant must understand that cases in the division must be completed within 12 months as read with the second schedule and the ethos of the court as expressed by MAFUSIRE J in the *Blackey* matter. After three meetings, surely applicant cannot be heard to seek a reversal of the processes. Whilst I am cognisant of

the fact that justice should not only be done but be seen to be done, the application shows a lack of seriousness on the part of the applicant and a disdain for the courts and rules. The application is not only scant in detail but has no merit at all.

On costs, none were sought and none will be awarded.

DISPOSITION

1. The application for the setting aside of the order granted on the 13th of May 2024 under HCHC 590/23 be and is hereby dismissed.
2. There shall be no order as to costs.



*Chimuka Mafunga Commercial Attorneys, a*pplicant's legal practitioners

Dube-Banda, Nzarayapenga and Partners, respondent's legal practitioners