

BRIGHT TIRIVANHU
versus
SHERIFF OF THE HIGH COURT
and
METHODIST REVIVAL CHURCH

HIGH COURT OF ZIMBABWE
MUZENDA J
MUTARE, 14 March 2025

Urgent Chamber Application

Mr L Madhuku with *Mr D Tandiri*, for the Applicant
Mr I Jakata, for the 2nd Respondent

MUZENDA J: The applicant is seeking the following interim relief:

“Pending determination of this matter, the applicant is granted the following relief:

IT IS ORDERED:

1. That pending the return day, the execution of the warrant of ejectment and execution against property issued by the Registrar of the High Court under R-HCH 3300/23 on 27 February 2025 in respect of the Muziti Assembly be and is hereby stayed.
2. That the respondents who opposed this order shall pay costs of this application on a legal practitioner and client scale.”

Background Facts

On 23 October 2024 second respondent as plaintiff, obtained a judgment in default from MANYANGADZE J sitting at Harare under case number R-HCH 3300/23 and the defendant in that matter was Philimon Munyaradzi Chamburuka and under that order the court ordered as follows:

- “1. The defendant and his assignees be and are hereby barred from unlawful use of the name, signs and other symbols of the Plaintiff.
2. The Defendant or his assignees be and are hereby directed to return and give access to all assets, equipment and documentation belonging to the Plaintiff mentioned in the Declaration and marked as Annexure “A” within seven (7) days of granting of this order.

3. The Defendant's purported inauguration as the bishop of plaintiff be and is hereby declared null and void.
4. The Defendant shall pay costs on an attorney client scale."

Using this order second respondent instructed the first respondent to evict the applicant from Muzite Assembly Point and the applicant has now approached the court for an interdict. Applicant's main argument is that he was not a litigant under R-HCH 3300/23 and cannot be referred to as a person claiming occupation through Chamburuka. Applicant denies that he is an assignee of Defendant under R-HCH 3300/23 and that if second respondent wants to evict him, second respondent should follow due process. Second respondent in opposing the application submitted that application belongs to a break-away church faction of Chamburuka and should be evicted on the strength of the order granted against Chamburuka.

Disposition

An application of this nature requires applicant to satisfy the court on the aspects of urgency, legal right, harm apprehended by an applicant, alternative remedy and balance of convenience to either party. Applicant's legal counsel in his submissions as well as pleadings managed to prove all those legal requirements and am satisfied that the application is urgent and is meritorious, it ought to be granted.