RUGARE MANDIMA N.O.(In his capacity as Executor Dative of the Estate of the late Julian Sylvestre Zijena, DR No. 2198/18)
and
ASHTON MUDZINGIRI
and
CITY OF GWERU
and
MASTER OF THE HIGH COURT N.O.

HIGH COURT OF ZIMBABWE
MAMBARA J
HARARE 6 and 11March 2025

Opposed Application

S Musapatika, for the applicant
A Mugari with W.T. Davira, for the 1st respondent

MAMBARA J:

Introduction

The Applicant, in his capacity as the Executor Dative of the estate of the late Mr. Julian Sylvestre Zijena ("the Deceased"), seeks a declaratory order in terms of section 14 of the High Court Act [*Chapter* 7:06]. His core prayer is that this Court should declare that the 1st Respondent, Mr. Ashton Mudzingiri, has no claim to a certain immovable property belonging to the deceased estate—namely, Lot 4 of Subdivision O of Christmas Gift, Gwelo District ("Lot 4" or "the property"). Additionally, the Applicant asks the Court to compel the 2nd Respondent, City of Gweru, to proceed with a consolidation application involving Lot 4 and related subdivisions. The Applicant insists he is entitled to finalize the estate without any legal or administrative obstructions from the 1st Respondent.

Section 14 of the High Court Act empowers this Court, in its discretion, to inquire into and determine any existing, future, or contingent right or obligation at the instance of an interested person, even if no consequential relief is sought. The requirement that the applicant be an "interested person" who asserts a cognizable right remains pivotal. The relevant portion of section 14(1) states:

> "The High Court may, in its discretion, at the instance of any interested person, inquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination."

According to our law, this formulation contemplates that a declarator be used to affirm an applicant's own legal right or obligation. That right or obligation may be "future" or "contingent," but there must be a legitimate, non-speculative interest behind the application. In *Madzimbamuto* v. *Lardner-Burke N.O. 1968 (2) SA 284 (RA)* at page 289, for example, the court observed that the purpose of what is now section 14 is to protect the applicant's right, not to "quash an adversary's claim in the abstract." Similarly, in Zimbabwe Teachers' Association & Ors v. Minister of Education 1990 (2) ZLR 48 (H) at pages 53–54, it was stressed that while the Act confers considerable latitude, "an applicant must establish the existence or potential existence of a right in themselves which merits the court's declaration."

The 1st Respondent opposes the relief. He insists that the Executor is effectively "seeking an advisory opinion on whether or not [the 1st Respondent] has any right," which, so he contends, is not the function of a declaratory application. He further avers that if the Executor is convinced that the 1st Respondent's claim is worthless; the Executor can simply proceed with transfer or disposal in the normal course. On that basis, the 1st Respondent sees this entire application as an abuse of process and contends it should be dismissed with costs.

At the commencement of the hearing I directed the parties to also address me on whether or not s14 of the High court Act provides for a remedy of a negative declarator, or simply an order declaring that someone has no rights to something.

II. Brief Background

Before the Deceased's passing, he owned a piece of land known as the Remainder of Subdivision O of Christmas Gift, under Deed of Transfer No. 492/95 dated 28 February 1995. Within that land, there arose multiple agreements of sale involving various subdivisions, including Lot 4 (which is roughly 4,577 square metres). One sale was to a Ms. Runyararo Homela in 2005; Ms. Homela's rights, in turn, were allegedly ceded or sold to Mr. Zishiri, then to Mr. Allan Chamboko, and, eventually, to the first Respondent, Mr. Mudzingiri.

The Executor states that following the Deceased's death, there was confusion as to whether the first Respondent had ever actually purchased Lot 4 from the Deceased, because the Deceased's final contract references the same purchase price previously paid by Mr. Chamboko. According to the Applicant, this suggests the Deceased never received any direct payment from the first Respondent. The Executor thus "rejected" the first Respondent's claim during the estate administration process. Crucially, the first Respondent did not institute legal proceedings to challenge that rejection within the statutory time limits. The Executor now takes

the position that the first Respondent "has no enforceable claim" to Lot 4. Nonetheless, the 1st Respondent's continued assertion of an interest, plus a formal objection lodged with the City of Gweru, has apparently delayed a proposed consolidation of several contiguous subdivisions (Lots 1, 3, 4, and 5), hindering the Executor's broader plan to administer and distribute the estate assets.

This Court is thus faced with a novel request: The Executor seeks a negative declarator that the 1st Respondent "has no claim." The Applicant's reason is that finalizing the estate is in the best interests of beneficiaries, and that the first Respondent's persistent claim stands in the way, particularly where 2nd Respondent (City of Gweru) will not proceed with the consolidation application without clarity from the Courts.

The Applicant contends that because the first Respondent's claim was never proven, and because no court order compels the estate to respect that claim, the 1st Respondent's position is purely vexatious. In the Applicant's view, to avoid indefinite delays, a judicial pronouncement that the 1st Respondent lacks all rights is both necessary and appropriate. The Applicant further avers that under section 14, the Executor is indeed an "interested person" because the estate faces practical constraints and burdens due to the 1st Respondent's position. The 1st Respondent's retort is that the Executor has no true "right" requiring a declaration; if the Executor honestly believes no claim exists, then the estate is free to proceed with transfers or distributions. The 1st Respondent also states that the alleged *agreement of sale* bearing the date 11 September 2016 should have been examined more thoroughly, and if it proves genuine, the 1st Respondent or his successors remain at liberty to vindicate ownership by action. Thus, the 1st Respondent denies that section 14 can be utilized by a party to disclaim or extinguish a third party's claim in the abstract.

Meanwhile, the City of Gweru has effectively suspended or "held in abeyance" the consolidation application, citing the first Respondent's objection. The City presumably awaits a court ruling that clarifies if the first Respondent's interest is valid. The Applicant, for his part, contends that the City cannot lawfully withhold approvals absent a valid court order interdicting the consolidation. Notwithstanding that stance, the local authority insists on caution because if the 1st Respondent later proves his entitlement, the City could be blamed for sanctioning an irregular consolidation.

The Applicant's final prayer, in summary, is:

1. A declarator that the 1st Respondent has no right or claim whatsoever to Lot 4;

2. An order directing the 2nd Respondent to finalize and approve the consolidation, ignoring the 1st Respondent's objection;
3. Costs of suit on the higher scale, on account of perceived vexatious conduct by the 1st Respondent.

From the 1st Respondent's perspective, the court cannot issue an abstract opinion on an adverse party's alleged "lack of rights." The first Respondent further characterizes the Executor's approach as "seeking a pronouncement on hypothetical matters." Should the Executor deem the 1st Respondent's claim invalid, "Nothing prevents the Executor from proceeding to distribute the estate to whomever he believes is lawfully entitled, leaving (the first Respondent) to sue if he so wishes."

In defending his request, the Executor underscores that he faces a real impediment: The City of Gweru refuses to proceed, so it is not merely theoretical. The first Respondent's stance, the Executor says, has a "chilling effect" on the estate's ability to finalize business. He thus contends that the estate's interest is not hypothetical.

Ultimately, the question is whether section 14 of the High Court Act embraces this form of negative declaration so as to quell the 1st Respondent's claim. As will be seen, the position under Zimbabwean law, influenced by both local and comparative authorities, strongly suggests that the applicant for a declaratory order must demonstrate their own existing, future, or contingent right—as opposed to a mere wish to disclaim or extinguish someone else's purported right in an abstract sense.

The first Respondent, for his part, asserts that the Executor's role is purely administrative; the property was sold multiple times in the Deceased's lifetime, and if the final sale to the 1st Respondent is questionable, it is the 1st Respondent's burden to approach the Courts by action or summons. A "negative declarator" which states that "the first Respondent has no claim" is, in his view, simply "an attempt to secure a legal opinion upon a matter that can be decided if, and only if, the 1st Respondent institutes action". In that sense, the first Respondent urges the Court to dismiss this application as incompetent.

Against that backdrop, I must consider whether this matter truly falls within the purview of section 14 and whether it is consistent with leading precedents in Zimbabwe, as well as helpful persuasive authorities from outside our jurisdiction.

III. Detailed Factual Background

The formal record reveals that the Deceased acquired the Remainder of Subdivision O of Christmas Gift via Deed of Transfer 492/95 (dated 28 February 1995). He later subdivided the land into multiple stands, including Lot 4 (the property in contention here). The Deceased embarked on a series of contracts or cessions involving these stands.

On 12 May 2005, the Deceased and Ms. Runyararo Betty Homela allegedly entered into a sale agreement for Lot 4. Although Ms. Homela signed some papers, there is controversy over whether she fully paid the purchase price.

Ms. Homela purportedly ceded her rights to Mr. Vincent Zishiri, who in turn ceded or transferred his rights to Mr. Allan Chamboko.

A written contract indicates that Mr. Chamboko sold Lot 4 to the first Respondent, Mr. Mudzingiri, on 15 July 2011 for a sum of USD 7,000. Meanwhile, the original 2005 agreement between the Deceased and Ms. Homela does not appear to have been formally cancelled.

A second contract dated 11 September 2016 (the authenticity of which is contested by the Executor) purports to show the Deceased himself selling directly to the first Respondent for the same sum. It references the price that had been paid to Mr. Chamboko, raising doubts as to whether the Deceased actually received payment.

After the Deceased passed away, an executor was appointed to administer the estate. The Executor discovered competing claims or partial cessions in the chain of title. The Executor claims that the 1st Respondent never produced original proof of payment to the estate, nor did he furnish the original 2016 agreement for close scrutiny. Eventually, the Executor "rejected" the 1st Respondent's claim. Under the Administration of Estates Act [*Chapter* 6:01], if a rejected claimant does not mount a legal challenge to the executor's decision, the rejection typically stands.

The first Respondent, however, maintained informally that he possessed a valid right to Lot 4. He lodged an objection to the City of Gweru's plan to consolidate Lots 1, 3, 4, and 5 back into a single stand so that the Executor could sell or administer it more simply as a single property. Because of that objection, the City of Gweru decided to hold the entire consolidation in abeyance, citing the possibility that the first Respondent might have an equitable or contractual entitlement.

Feeling obstructed, the Executor wrote multiple letters to the first Respondent's legal practitioners requesting formal proof of the alleged sale and urging them to withdraw the objection to the consolidation. When no proof or original agreement was forthcoming—and no lawsuit was filed to challenge the Executor's decision—the Executor launched the present

application under section 14 of the High Court Act, seeking an order that the first Respondent "has no claim" and that the City of Gweru may ignore the first Respondent's objections.

The 1st Respondent opposes. He cites, among other authorities, the "Family Benefit Friendly *Society* v *Commissioner* for Inland Revenue 1995 (4) SA 120 (T) matter," in which Van DIJKHORST J stated:

> "The court does not give advice gratuitously or answer academic questions. A litigant must show that he has a direct and substantial interest in the relief sought. Approaching the court merely for a legal opinion upon an abstract matter is not permitted."

The 1st Respondent insists that the Executor's interest does not qualify as the sort of "existing, future or contingent right" that needs immediate judicial confirmation. Instead, the Executor simply wants a comfortable pronouncement that the first Respondent "has no claim," which is a purely negative pronouncement about someone else's alleged rights.

The Applicant retorts that the estate does have a real interest: finality in the administration. According to the Applicant, "the Executor's right is to administer the estate free of obstruction." Because the 1st Respondent's stance results in the City refusing to finalize the consolidation, the Executor's ability to wind up the estate is effectively curtailed.

This tension between the Executors's "duty to wind up" and the 1st Respondent's "unproven claim" frames the legal question: can an executor effectively "turn the tables" and force the respondent to prove or lose his claim via a negative declarator in our Courts under section 14?

IV. The Law Governing Declaratory Relief

In Zimbabwe, the statutory authority for declaratory orders is section 14 of the High Court Act, which is a carry-over from prior legislation in the region. The essential test is that the Court must be asked to determine an "existing, future or contingent right or obligation," and the applicant must be an interested person. The leading Zimbabwean decisions that expound on this requirement include:

Zimbabwe Teachers' Association & Ors v. Minister of Education 1990 (2) ZLR 48 (H), where REYNOLDS J stated (at 53F–54A):

> "In determining whether to grant declaratory relief, this Court must be satisfied of two critical elements: first, that the applicant has an actual interest in bringing the matter to court in order to protect or clarify a legal right which it holds, and secondly, that the question raised is not merely an abstract or academic point. Although section 14 of the High Court Act confers a wide discretion on the courts, it has never been interpreted to permit a purely academic pronouncement about another party's supposed or hypothetical claim."

Electrical Contractors Association (Mashonaland) & *Anor* v. *Building Industries Federation (Zimbabwe) 1998 (2) ZLR 153 (H),* where GILLESPIE J articulated (at 160F):

> "A person seeking a declaration of rights must set forth his contention as to what the alleged right is. It is not enough to set forth the absence or invalidity of someone else's putative right. The function of the court is to assist in the determination of a legal interest or obligation in which the applicant has a stake."

Similar principles are found in *Madzimbamuto* v. *Lardner-Burke* N.O. (supra), emphasizing that the Act was never intended to permit "abstract inquiries" into hypothetical claims.

In *Family Benefit Friendly Society* v. *Commissioner for Inland Revenue* 1995 (4) SA 120 (T), VAN DIJKHORST J said:

> "Our courts do not decide matters merely because a party seeks comfort or legal certainty divorced from a real dispute about that party's own right, title or obligation. Approaching the court for what amounts to a legal opinion upon an abstract or academic matter is simply impermissible."

In Re S (Hospital Order: Court's Jurisdiction) [1992] 3 WLR 806 (CA), the Court of Appeal stated:

> "Declaratory relief must still be anchored in the claimant's own legal interest. To countenance a negative pronouncement concerning the defendant's claim or status, in the absence of a cognizable liability or threatened compulsion on the claimant, would risk turning the court into an advisory body."

In *Maryland Casualty Co*. v. *Pacific Coal* & *Oil Co., 312 U.S. 270 (1941*), the U.S. Supreme Court explained:

> "The question in each case is whether the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment."

Also see *MedImmune, Inc*. v. *Genentech, Inc.,* 549 U.S. 118 (2007), where the Court reiterated that a "case or controversy" must exist from the plaintiff's standpoint, not just an attempt to disclaim the defendant's potential rights."

While negative declaratory relief is not outright forbidden in every jurisdiction, the consistent theme is that the claimant (i.e., the applicant) must demonstrate that some immediate or contingent liability or right of its own is at stake. It is insufficient merely to show that one wants a judicial statement that the opposing party has "no claim.

Consequently, the focus in our law is whether the Executor is facing a real threat to his own proprietary or administrative right. If the Executor can show that the Estate stands to suffer immediate prejudice absent a declaration, then the Court may entertain the application. But if

the Executor is merely anxious about the 1st Respondent's potential suit, or about the City's indecision, that typically is not the sort of "threat" to the Executor's own legal right that section 14 is designed to remedy.

V. Analysis

Does the Applicant Possess a Cognizable "Right or Obligation" Under Section 14?

The Applicant's counsel contends that the Executor's "duty to wind up" the estate is being infringed by the first Respondent's "unsubstantiated claim," thereby creating a direct interest for the Executor. More specifically, the Applicant says the City of Gweru is refusing to finalize consolidation of the property so that the estate cannot be efficiently concluded. According to the Applicant, that amounts to a real and substantial interference with his ability to administer the Deceased's assets.

It is indeed correct that an executor has certain duties and powers, including the authority to realize assets and to convey immovable property to rightful transferees or beneficiaries. One might well ask: *If the Executor has concluded that the 1st Respondent's claim is invalid, is there anything preventing the Executor from simply proceeding with distribution or sale?* Typically, if a spurious claim is lodged and then rejected, the executor simply notes that rejection in the estate accounts and moves on. Unless the claimant obtains an interdict or sues to enforce the alleged right, there is usually no obstacle. That is the standard approach.

Here, the Executor says that the first Respondent lodged an objection to the proposed consolidation with the City of Gweru. The 2nd Respondent, uncertain how to proceed, placed the matter on hold to avoid potential liability. The fundamental question is whether that municipal caution transforms the Executor's theoretical interest into a genuine "existing, future, or contingent right." If no final court order compels the Executor to cede or pay anything to the 1st Respondent, it is not apparent how the Executor's "rights" are truly imperilled.

In *Electrical Contractors Association (Mashonaland) & Anor v. Building Industries Federation (Zimbabwe) 1998 (2) ZLR 153 (H)* at 160F, GILLESPIE J made the point that:

> "A declarator is intended to set at rest some dispute which, if unresolved, would work material prejudice to the applicant's interests in the sense of an existing or impending liability, restriction, or compulsion."

In that case, the applicant organization had a definable membership interest and was being threatened with specific adverse consequences. Accordingly, it had a direct, non-

hypothetical interest in securing a declaration. But the court also cautioned that "a mere academic pronouncement upon the alleged invalidity of another's claim, divorced from the applicant's own liability or limitation, would not suffice.

Precisely the latter scenario arises here. The Executor is under no compulsion to pay the 1st Respondent or to transfer the property to him. Nor does the 1st Respondent hold a court order inhibiting the Executor from disposing of the property. If the City of Gweru is uncertain, the Executor can presumably produce a written indemnity or proceed to rectify the matter by disclaiming the 1st Respondent's interest. The City's reluctance is an administrative stance, not an injunction. Notably, the 1st Respondent has not seized the property via an interdict.
Thus, the real impetus for the present application is that the Executor fears that if he proceeds to consolidate and sell or distribute, the 1st Respondent might later sue for damages, forcing the estate to engage in further litigation. That fear might be understandable from a practical standpoint, but it does not constitute a recognized existing or contingent obligation of the Executor that triggers relief under section 14. The relevant principle from *Van Dijkhorst J* in Family Benefit Friendly Society applies:

> "The court will not pronounce upon the validity or invalidity of a hypothetical claim in the absence of a demonstration that the applicant itself is subject to some real liability or is threatened with an immediate constraint."

Consequently, while the Executor's frustration is acknowledged, frustration alone does not suffice to vest the Executor with an actionable right to have the 1st Respondent's interest negated by judicial decree.

B. The Nature of Negative Declaratory Relief

The concept of a negative declarator is well known in certain jurisdictions, often in specialized contexts such as intellectual property, insurance coverage disputes, or maritime law. But the fundamental rule is consistent: the plaintiff (applicant) must still show it has a legitimate interest threatened by the defendant's posture. Quoting Re S (Hospital Order: Court's Jurisdiction) [1992] 3 WLR 806 (CA), at p. 811:

> "It may indeed be possible for a claimant to seek a declaration that the defendant has no right against him, but only upon proof that the claimant himself is thereby subject to a present or threatened detriment that is neither hypothetical nor speculative."

In the instant case, it is difficult to identify any threatened "detriment" to the Executor, aside from administrative inconvenience with the City of Gweru. That inconvenience arises less from any legal compulsion than from the City's preference to avoid complications.

In the United States, the principle that "[t]he question in each case is whether … there is a substantial controversy … of sufficient immediacy and reality" (per *Maryland Casualty Co.*) further clarifies that the applicant must show an actual case or controversy. If the Executor claims that no controversy truly exists—i.e., the 1st Respondent's claim is baseless—then this purported dispute lacks the immediacy or reality demanded of a declaratory claim.

Hence, the law across multiple common-law jurisdictions rejects the notion of entertaining purely negative declarations that the other side "has no claim," unless the applicant's own liability or right is under genuine, immediate threat. Absent that element, the dispute is effectively an academic one.

C. Availability of Other Remedies

One might ask: "But how, then, should the Executor finalize the estate if the City is uncooperative?" The answer lies in the standard approach used for decades in Zimbabwean estates practice. An executor who rejects a claim normally proceeds to finalize distribution. If the purported claimant (the 1st Respondent) is serious, he must apply to court—perhaps by summons—for an order reversing the executor's decision. Failing that, the estate administration is typically unaffected.

As for the City's reluctance, the Executor can supply the City with the documentary evidence of the claim's rejection, as well as a suitable indemnity or a legal opinion confirming that no court order currently restrains consolidation. If the City remains adamant, the Executor could seek a more direct administrative remedy—such as a review of the City's decision to suspend consolidation or an order compelling the City to process the application on the ground that no valid interdict bars it. That would be a distinct cause of action aimed at the City's refusal. But the City is not refusing on any basis other than caution about the 1st Respondent's claim. In other words, the actual dispute is not so much that the City is forcing the Executor to do anything, but that the City is not ready to proceed with an arguably optional step (consolidation). Even that does not appear to constitute an "existing, future, or contingent right" of the Executor requiring a judicial pronouncement that the 1st Respondent has no claim.

The upshot is that simpler, more orthodox paths exist. The Executor's resort to a negative declaratory of the 1st Respondent's non-right suggests an attempt to short-circuit the usual possibility that the 1st Respondent might sue if indeed he has proof. But that strategy is typically disfavoured. GILLESPIE J underscored in *Electrical Contractors Association* (supra) at 161A that "an applicant cannot convert a prospective defendant's uncertain or potential claim into a cause of action for a declarator so as to avoid the rigours of an action," especially where

the applicant's own right or liability remains uncertain. The Executor is effectively saying: "If you claim anything, prove it now or be barred." While that approach might yield convenience for the Executor, it collides with the requirement that the applicant's own legal interest must be at stake.

D. The Argument That the Executor Has Administrative Standing

The Executor contends that he is not simply a bystander but rather a statutory functionary obliged to bring clarity to estate affairs, and that requiring the 1st Respondent to come to court later is inefficient. The courts, however, have consistently held that efficiency alone is not a basis for ignoring the threshold requirement that an applicant show an enforceable or threatened right. If that were permissible, executors or other parties could approach the courts en masse to disclaim every uncertain or unperfected claim, seeking negative declarations. That scenario would open the floodgates to purely academic litigation.

The Executor also argues that the estate's beneficial heirs are prejudiced by the ongoing delay. However, prejudice and potential inconvenience do not themselves create a right. As was noted in Zimbabwe Teachers' Association (supra), "the wide discretion conferred by statute does not sanction mere convenience as a basis for granting a declarator. There must be a genuine right or obligation in issue."

The critical question remains whether the application meets the statutory standard for declaratory relief. Having regard to all the arguments and authorities, the answer is in the negative: The Executor has not demonstrated that he has a specific right or obligation of his own that stands to be resolved by a "negative pronouncement" regarding the 1st Respondent's alleged claim.

VI. Conclusion

Section 14 of the High Court Act [Chapter 7:06] contemplates that the Court may declare an applicant's existing, future, or contingent right (or obligation). It does not ordinarily sanction an applicant's attempt to disclaim or invalidate a third party's putative right in the absence of a genuine threat to the applicant's own interest.

The Executor's arguments, though sincere, do not demonstrate that the estate faces a compulsion or immediate liability: the 1st Respondent has not sued, no interdict is in place, and the City of Gweru's cautionary stance is an administrative hesitation rather than a legal directive.

Comparative case law from Zimbabwe, South Africa, the United Kingdom, and the United States underscores that negative declaratory orders are typically disfavoured unless the applicant faces an imminent liability or threatened enforcement from the respondent. Here, the Executor simply wants clarity to expedite estate distribution. While that is understandable, it does not ground the requisite right.

Consequently, the relief sought is outside the intended scope of section 14. The present application asks the Court to pronounce "the 1st Respondent has no claim" in an abstract manner—i.e., to do exactly what VAN DIJKHORST J cautioned against in the Family Benefit matter: "to grant a legal opinion upon an abstract or academic matter."

Mr Musapatika, counsel for the applicant, in his replication, proposed to amend the draft order to align with the requirements of s14 of the High Court Act but no amendment can save this application. In any case the axiomatic position of the law is that an application stands or falls on the founding affidavit. This one falls flat on its face.

In that light, the application must fail. The 1st Respondent's alleged claim might indeed be weak or non-existent. But that is for him to advance (or abandon) if and when he chooses, and the Executor can finalize the estate in the normal course, absent an injunction. The Court is not empowered to issue the blanket negative declaration sought here.

VII. Costs

Costs customarily follow the result. The 1st Respondent has prayed for costs on an attorney–client scale, accusing the Executor of abuse. On the facts, while the application is fundamentally misconceived, there is no clear evidence of bad faith. The Executor's frustration with the City's stance was not wholly contrived, and counsel advanced arguments with some measure of diligence, albeit unsuccessfully. Our courts are generally reluctant to impose punitive costs simply because a litigant has erred in law—absent clear evidence of dishonesty or vexatious intent.

I find that an award of ordinary (party-and-party) costs suffices. The 1st Respondent has been put to expense opposing an unmeritorious claim, and the normal scale should make him whole. There is no justification to depart from that scale.

VIII. Disposition

Whereupon the Court, having read the papers and heard submissions, it is ordered that:

The application for a declaratory order in terms of section 14 of the High Court Act is dismissed.

The Applicant (Executor) shall bear the 1st Respondent's costs of suit on the ordinary (party-and-party) scale.

MAMBARA J……..

Danziger and Partners, applicant's legal practitioners
Gundu, Dube & Pamacheche, first respondent's legal practitioners