

AMAPLAT MAURITIUS LIMITED  
and  
AMARI NICKEL HOLDINGS ZIMBABWE LIMITED  
and

ZIMBABWE MINING DEVELOPMENT CORPORATION  
versus  
ZIMBABWE MINING DEVELOPMENT CORPORATION  
and  
THE CHIEF MINING COMMISSIONER' MINISTRY OF MINES AND MINING  
DEVELOPMENT  
and  
ZIMARI PLATINUM (PRIVATE) LIMITED  
and  
ZIMARI NICKEL (PRIVATE) LIMITED

HIGH COURT OF ZIMBABWE  
BHUNU J  
HARARE, 24 January 2011

*C F Dube*, for the applicants  
*F Mutamangira*, for the first respondent

BHUNU J: This is an urgent application for interim relief in the following terms:

“The first respondent be and is hereby interdicted from alienating or otherwise disposing of or dealing with the rights of the third and fourth respondents arising out of the memoranda of understanding concluded between the applicants and the first respondent at Harare on 25 July 2008 and 13 October 2006, pending the outcome of an arbitration to be instituted by the applicants in Paris in accordance with the afore mentioned memoranda of understanding;

The first, third and fourth respondents be interdicted from amending, alienating or changing the shareholding in and the share registers of the third and fourth respondents pending the outcome of the arbitration referred to in prayer 1 above;

1. The applicants be and are hereby ordered to institute the above mentioned proceedings within sixty days of this order; and
2. Leave be and is hereby granted to the applicants”

The matter could not be heard today because the first respondent only filed its opposing papers this morning shortly before the hearing at 9:00 hours. The parties are agreed

that the matter be postponed *sine die* to enable the applicants to go through the opposing papers and to file the necessary responses.

The applicants have now applied for an order substantially in the same format as the interim order being sought in the main application to protect their interests pending my determination in the main matter. The interim order sought reads:

“The application is postponed *sine die*.

1. The applicants are ordered to give a replying affidavit by 31 January 2011.
2. The parties are to give supplementary heads of argument by Thursday 3 February 2011
3. Pending the outcome of the hearing of this application:
  - 3.1 The first, third and fourth respondents are interdicted from alienating or otherwise disposing of or dealing with the mining rights, licenses and other business interests of the third and fourth arising out of the Memoranda of Understanding concluded between the applicants and the first respondent; and
  - 3.2 The first, third and fourth respondents are interdicted from amending, altering or changing the shareholding in and the registers of the third and fourth respondents”.

The application is strenuously opposed by the first respondent on the basis that the applicants want to smuggle the order they are seeking in the main application through the back door. Counsel for the first respondent while viciously opposing the order being sought has undertaken to advise his clients not to engage in the conduct complained of pending my determination.

It is a general rule of law and practice that parties must desist from conducting themselves in a manner that seeks to obstruct, preempt, undermine or sabotage the outcome of court proceedings.

Generally speaking Zimbabweans are law abiding citizens. In that regard I do not see the first respondent a statutory board for that matter acting contrary to the advice of its legal practitioners. For that reason I consider it wholly unnecessary to grant the interim order sought pending my determination in the main matter.

The application for an interdict pending my determination in the main matter accordingly fails with costs being costs in the cause. The first respondent is however

admonished to abide by the advice of its legal practitioner regarding the maintenance of the *status quo ante* pending my determination in the main matter.

*Dube, Manikai & Hwacha*, applicants legal practitioners  
*Mutamangira & Associates*, first respondent's legal practitioners