

BASE MINERALS ZIMBABWE (PVT) LTD
and
PETER VALENTINE
versus
MABWE MINERALS (PVT LTD
and
JOHN RICHARD NEEDHAM GROVES
and
MINISTER OF MINES

HIGH COURT OF ZIMBABWE
MATHONSI J
HARARE, 23 September 2014

Ex tempore

F.N. Katsande, for the applicant
S. Hashiti, for the 1st and 2nd respondents

MATHONSI J: This is an application for a postponement of the hearing of the application to enable the respondents to prosecute an application for the upliftment of the automatic bar operating against them for failure to file heads of argument timeously. The respondents in this matter are barred for that reason and an application for the upliftment of the bar was filed in HC 7978/14 which application is yet to be determined.

The applicants were put on notice that the application would be made at the hearing of the matter if they did not consent to the upliftment of the bar by letter written by Messrs Mawere & Sibanda legal practitioners on 17 September 2014 to the applicants' legal practitioners. The letter was delivered on them on 19 September 2014 well before the court date. From that correspondence, it is apparent and Mr *Hashiti* for the respondents did confirm that fact, that the application for upliftment of the bar is opposed.

In spite of that letter of notice, Mr *Katsande* for the applicants says that he still has no instructions on whether to consent to the upliftment in order to pave way for the hearing of the application or not. He however strongly opposed the application for postponement but in essence raising issues relating to the merits of the application. If the applicants wanted finality they should have cut their losses by consenting to the upliftment of the bar thereby allowing the main application to be argued. They cannot have it both ways.

As long as the application for the upliftment of the bar has not been determined it would be improper to adjudicate on the main matter and possibly invite further litigation. This court has a duty to regulate its own processes. In my view, where it has been called upon and is yet to decide on the merits of the application for the upliftment of the bar, it is undesirable that this court should proceed to determine the main application thereby adding onto the already existing confusion.

In that regard, I note that endless litigation has been instituted as between the parties with no attempt whatsoever to bring finality. In fact, I counted not less than 11 cross reference files relating to this dispute. This court will not allow itself to be part of that confusion.

Accordingly, I make the following order, that:-

1. The application is hereby postponed *sine die* pending the determination of the application for upliftment of the bar filed in HC 7978/14.
2. There will be no order as to costs.

F.M. Katsande & Partners, applicants' legal practitioners
Mawere & Sibanda, 1st & 2nd respondents' legal practitioners