

MYDALE INTERNATIONAL MARKETING (PVT) LTD
and
PETER VALENTINE
and
FRANCIS MUNETSI KATSANDE
versus
JONATHAN SAMUKANGE
and
GOLDEN RWAVI
and
REGISTRAR OF THE HIGH COURT

HIGH COURT OF ZIMBABWE
BERE J
HARARE, 18 September 2013 & 6 November 2014

Unopposed matter

F.M.Katsande, for the applicants
E. Samukange, for the respondents

BERE J: This matter was brought to me seeking default judgment on the basis that the notice of opposition filed by the respondents had been struck out by my brother MANGOTA J on 6 August 2013.

Just a day before the hearing of this application the respondents filed an application seeking the lifting of the bar to enable them to effectively deal with the applicant's application under HC3360/13. On the day of hearing Mr *E.Samukange* appeared to argue the application for the upliftment of the bar.

I have had the misfortune of perusing several cases referring to these same litigants as a result of the reference cases noted in this case and other related cases.

This is one very unusual case where strangely enough two different law firms claim to represent one of the litigants, a company called Mydale International Marketing (Pvt) Ltd.

In case number HC2470/13 which I personally handled as a chamber application, the respondents in this case projected themselves as representing Mydale International Marketing

(Pvt) Ltd. In this case before me the now applicants claim to represent Mydale International Marketing (Pvt) Ltd.

The result of all this is that this approach, whatever the motive has created total confusion in this court as evidenced by several judgments emanating from this court.

The firm view that I take is that where there is such confusion, all the parties involved must be given an opportunity to put the record straight and be of much more meaningful assistance to the court instead of scratching the matter from the surface.

I have carefully considered the chamber application filed by Messrs Venturas Samukange Legal Practitioners for the upliftment of the bar imposed against them. It is debatable as to whether or not the respondent's notice of opposition should have been struck out in the first place. I do not wish to take the debate further in this regard.

However, what has exercised my mind is the amount of confusion created by the two law firms over their status with regard to a company called Mydale Investments Marketing (Pvt) Ltd. It occurs to me that there is need to conclusively deal with the exact status or position of this company. There is need to establish who between the two law firms has the legitimate right to represent this company to avoid compounding an already compromised situation where two different law firms literally fight over one client thereby creating total confusion to Judges of this court.

It is precisely because of these considerations that both Messrs F.M. Katsande and Partners and Venturas and Samukange Legal Practitioners should be granted an opportunity to argue their case by uplifting the bar currently in force.

It is therefore ordered as follows:

1. The notice of opposition struck out by my brother MANGOTA J on 6 August 2013 in respect of case No. HC3360/13 be and is hereby reinstated.
2. The late filing of Heads of Argument be and is hereby condoned.
3. The Heads of Argument in respect of case No. HC3360/13 be filed and served on the respondents on or before 17 November 2014.
4. That costs be costs in the cause.