

REDAN ENERGY PETROLEUM (PRIVATE) LIMITED  
and  
SAKUNDA PETROLEUM (PRIVATE) LIMITED  
versus  
JEFT MARKETING (PRIVATE) LIMITED

HIGH COURT OF ZIMBABWE  
ZHOU J  
HARARE, 24 May 2018

### **OPPOSED MATTER**

Ms *S. Dhlakama*, for the 1<sup>st</sup> & 2<sup>nd</sup> applicants  
*P. Matsanura*, for the respondent

ZHOU J: This is an application for the registration of an arbitral award rendered in terms of the Arbitration Act. The application is opposed by the respondent on the basis that the award was granted contrary to the public policy of Zimbabwe.

It is common cause that an application instituted by the respondent to have the arbitral award set aside on grounds of being contrary to the public policy of Zimbabwe was dismissed by this court. It has not been shown why this court should revisit that conclusion which was based on the facts upon which the opposition *in casu* is predicated. Mr *Matsanura* for the respondent submitted that the respondent is opposing the issue of costs on the attorney-client scale which are being sought in the present matter.

Costs on the attorney-client scale are a punitive measure of costs by which the court expresses its displeasure at mis-conduct on the part of a litigant. Looking at the grounds of opposition, it is clear that the opposition is so groundless as to amount to an unacceptable abuse of court. All the allegations such as that the award was rendered in the absence of terms of reference for the arbitrator, that the rules of natural justice were violated, and that the arbitrator was biased, are not based on any evidence. They are just allegations made in a casual manner in the opposing affidavit. Also, once the application for the setting aside of the arbitral award was dismissed there was really no reason for this matter to be contested in this manner. The respondent could have notified the applicant or the court that it consents to the registration of the award and seek discussion on the question of costs. It did not do that. In fact, even in

argument there is no suggestion made to that effect. For the above reasons, the special order of costs is warranted.

In the result, the application is granted in terms of the draft order.

*Dumbutshena & Co. Attorneys, 1<sup>st</sup> & 2<sup>nd</sup> applicants' legal practitioners*  
*Mboko T. G Legal Practitioners, respondent's legal practitioners*