

THE TRIAL OFFICER  
(CHIEF SUPERINTENDENT MUPITA N)  
and  
THE COMMISSIONER GENERAL OF POLICE  
and  
ATTORNEY GENERAL  
versus  
CONSTABLE MAVHUNDA

HIGH COURT OF ZIMBABWE  
ZHOU J  
HARARE, 31 May 2018

### **Opposed Matter**

*D. Jaricha*, for the applicant  
*N. Mugiya*, for the respondent

ZHOU J: This is an application for dismissal for want of prosecution of an application filed by the respondent under Case No. HC 2418/17. Case No. HC 2418/17 is an application by the respondent for the reinstatement of an application for review which was also dismissed by this court for want of prosecution. The instant application is opposed by the respondent.

The purpose of s 236 (4) is to ensure that cases instituted are prosecuted expeditiously to avoid clogging the court system with dormant cases or matters that the parties are not in a hurry to bring to finality for whatever reason. Where an application for dismissal for want of prosecution is instituted it is up to the respondent to explain its default in order for this court to consider relief other than dismissal. Reading through the respondent's opposing affidavit *in casu*, one finds no explanation for the failure to prosecute the application. Instead, the respondent displays the attitude that because he has now filed a request for the matter to be set down then the court should not dismiss the application for want of prosecution.

The request for set down was filed on 13 December 2017 about two and a half months after the respondent had been served with the application *in casu*, and almost two months after he had filed his notice of opposition in the present matter. There is no explanation as to why it

took that long to act. When one considers that that application was also made to redress another default by the same respondent of failing to prosecute his application for review, it becomes difficult for this court to exercise its discretion in his favour.

There is need for finality in litigation. This principle is firmly entrenched in our jurisdiction. It is this court's view that in order to bring finality to this dispute the present application ought to succeed.

In the premises, relief is granted in terms of the draft order.

*Mugiya and Macharaga Law Chambers*, applicant's legal practitioners  
*Civil Division of the Attorney General's Office*, respondent's legal practitioners