

TENDAI GURUWO
versus
CASPER MASVIKENI FAMILY TRUST
and
THE SHERIFF OF ZIMBABWE

HIGH COURT OF ZIMBABWE
MUSHORE J
HARARE, 24 October 2017 & 31 October 2018

Urgent Chamber Application

Applicant in person
Ms *D L Mutsikadowo*, for the 1st respondent

MUSHORE J: On 24 October 2017, I dismissed the applicant's urgent application for a stay of execution. Appellant has a filed an appeal and is requesting my reasons for dismissing his application. Although the appellant has not sought leave to appeal as he is required to. I have settled my reasons in writing in the interests of justice.

Appellant filed this urgent application for a stay in execution because the Deputy Sheriff was about to evict him from 92 Harare Drive, Marlborough, Harare which applicant described to be 'his residence'. Nothing could have been further from the truth because when the first respondent opposed the application, respondent furnished proof of its title to the property by way of a title Deed. Appellant had no proof whatsoever to found a legitimate interest in the property other than his word. The application for appellant to be evicted from the property was made after the first respondent had bought the property and after the appellant had resisted eviction. During the sale process applicant did not take any legal action. He only reacted when he was about to evicted from the property. His reaction was to file for spoliation. However the order for appellant's eviction remains extant and the chances of it being rescinded are remote.

The respondent's opposing papers are detailed and voluminous but they make all the facts crystal clear. Appellant has been abusing the processes of this court to obtain the sympathy of the court and this application is not an isolated incident. Appellant is now becoming a serial litigant who is determined to frustrate the respondent's enjoyment of the property. The respondent Trust has been set up for its beneficiaries who are minor children. The appellant was neither able to prove a legitimate interest in the property or that he filed the present application '*when the need to act arose*'.

Appellant did not make out a case for the relief of an urgent stay of execution. Accordingly I ruled as follows:

"Application is dismissed."

Dzoro & Partners, 1st respondent's legal practitioners