COLLEN KWARAMBA
and
McMEEKAN FOUNDERS & ENGINEERS 2014 (PVT) LTD
versus
WATSONGAVAZA
and
BRIGHTON PABWE N.O.

HIGH COURT OF ZIMBABWE
HUNGWE J
HARARE, 16 January, 2015

Urgent Chamber Application

Ms *SZ Takawira,* for the applicants
Ms *S Mbetu,* for the first respondent

HUNGWE J: The first applicant is a director in second applicant in which the first respondent is also a co-director. The applicants seek the following interim relief:

"**TERMS OF INTERIM ORDER SOUGHT**

Pending the determination of the application for review in HC 46/15, the following order is granted:

1. The 1st respondent be and is hereby barred from the workplace and premises of the 2nd applicant unless he has followed prescribed legal means provided under the Labour laws of Zimbabwe.
2. The ruling in MC 30523/14 be and is hereby suspended from operation pending the hearing of the application for review.
3. The 1st respondent be and is hereby interdicted from causing the breach of the peace at the premises of the 2nd Applicant, McMeekan Founders and Engineers (Private) Limited."

In November 2014 first applicant, in his capacity as Chairman of second applicant, addressed correspondence to first respondent in which he suspended him. He also barred him from attending at his work-place. Thereafter a battle for the control of second applicant and/or Quad Founders & Engineers began. The first respondent obtained a spoliation order in the Magistrates Court in MC 30523/14. The applicants claim that the order cannot be allowed to

stand as it is vitiated by certain serious procedural irregularities. The applicants filed an application for its review with this court. In the meantime the first applicant sought an urgent stay of the order subject of review through the chamber book in HC 46/15. The judge before who the matter was placed found that the matter was not urgent and declined to hear it as such. She also pointed out that there was need to join second applicant. There is divergence of views between the parties regarding the outcome of that application. The first applicant contends that he withdrew the matter in order to join the second applicant as advised by the judge respondent, on the other hand, says the matter was dismissed. As such the applicants cannot have a second bite of the cherry.

Whatever the position is, it is clear to me that where this court has ruled that a matter is not urgent, as conceded by the applicants, a party cannot file the same matter under a certificate of urgency unless it can establish new grounds upon which it can be said the matter is urgent. A matter is urgent when, it is said, it cannot wait. See *Kuvarega* v *Registrar-General & Another* 1998 (1) ZLR 188. In the present case, the basis of urgency is said to be the belligerent attitude adopted by the first respondent in the fight for the control of the company. Clearly, there are several other remedies available to the applicants, in terms of the law, to address the aggression as well as the perceived disruption of normal business activities of the company.

Since I was similarly not satisfied that the matter was urgent, I declined to deal it on that basis and directed that it be brought through the normal rules of court.

The matter is removed from the roll of urgent matters with no order as to costs.

Takawira Law Chambers, applicants' legal practitioners
Govere Law Chambers, first respondent's legal practitioners