

OWEN RUWIZA
versus
COMMISSIONER GENERAL OF POLICE N.O

HIGH COURT OF ZIMBABWE
ZHOU J
HARARE, 18 July 2018

Urgent Chamber Application

T Matiyashe, for the applicant
Ms M Gezera with *Ms Magunde*, for the respondent

ZHOU J: This is an urgent chamber application for an order interdicting the respondent from instituting a suitability inquiry in respect of the applicant pending determination of the court application for review filed by the applicant under case No. HC 6543/18. The application is opposed by the respondent.

The convoluted facts of this matter are that in 2014 the applicant instituted an application for review under Case No. HC 10614/14. The respondent, who was also the respondent in that matter failed to file his notice of opposition timeously. Respondent then filed an application for condonation and extension of the time within which to file a notice of opposition in case No. HC 10614/14. The respondent's application for condonation was filed under case No. HC 463/15 being finalised the respondent filed a second application for condonation under case No. HC 9565/17 which was duly served upon the applicant's legal practitioners. The applicant did not oppose that application. An order was granted on 3 November 2017 by which the respondent's failure to file the opposing papers timeously in the application for review was condoned and the respondent's papers were deemed to be duly filed.

Subsequently, the respondent filed an application for dismissal of the application for review for want of prosecution. This application for dismissal was also duly served upon the applicant

through his legal practitioners. The applicant did not oppose the dismissal of his review application for want of prosecution. On 31 May 2018 this court granted the application for dismissal of case No. HC 10614/14. The applicant has instituted an application seeking reversal of that dismissal.

The applicant's explanation for his default is that he had extended a hand of courtesy to the respondent by not proceeding with his application for review because he wanted the respondent's application for condonation to be heard first. He further blames the respondent for filing a second application for condonation instead of prosecuting case No. HC 463/15. I do not accept the applicant's explanation to be reasonable because nothing stopped him from prosecuting his application for review. Even if he wanted to be courteous, it is unacceptable that he would wait for three years for an application which had the effect of delaying finalisation of his matter to be prosecuted and not even bother to check on progress. More significantly, the applicant was served with the second application for condonation as well as the application for dismissal. He did not oppose both applications. He blames his legal practitioners, Mangwana & Partners, for that. But there is no affidavit from Mangwana & Partners to support his case. Also, the mere fact that he had instructed legal practitioners did not absolve him of the duty to act to bring finality to the dispute.

The principle that there must be finality in litigation is one that is firmly entrenched in our jurisdiction. Its requirement entails that those who institute proceedings must act expeditiously to bring finality to the dispute. The applicant did not do that. For that reason this court does not accept that there are good grounds for granting the interdict being sought in the instant case.

Resultantly, the application is dismissed with costs.

Matiyashe Law Chambers, applicant's legal practitioners
Attorney General's Office, respondent's legal practitioners