

IN THE HIGH COURT OF ZIMBABWE

CASE NO. HC 865/17

HELD AT BULAWAYO

IN THE MATTER BETWEEN :-

CITY OF BULAWAYO

APPLICANT

and

NEWTON MLOTSHWA

1ST RESPONDENT

Stand No. Lot 1 of Stand 42

Four Winds Township

(9 Victoria Avenue)

BULAWAYO

AUBREY MAUREEN MLOTSHWA

2ND RESPONDENT

Stand No. Lot 1 of Stand 42

Four Winds Township

(9 Victoria Avenue)

BULAWAYO

Bulawayo: Monday, the 3rd day of April 2017

Before the Honourable Mr. Justice Makonese

TO: Respondent

TAKE NOTICE THAT on 3rd April 2017, the Honourable Mr. Justice Makonese, at the High Court sitting at Bulawayo in chambers issued a Provisional Order as shown overleaf.

The annexed Chamber Application, affidavits and documents were used in support of the application for this Provisional Order.

If you intend to oppose the confirmation of this Provisional Order, you will have to file a Notice of Opposition in Form No. 29B, together with one or more opposing affidavits, with the Registrar of High Court at Bulawayo within ten (10) days after the date on which this Provisional Order and annexure were served upon you. You will also have to serve a copy of the Notice of Opposition and Affidavits/s on the Applicant at the address for service specified in the application.

If you do not file an Opposing Affidavit within the period specified above, this matter will be set down for hearing in the High Court at Bulawayo without further notice to you and will be dealt with as an unopposed application for confirmation of the Provisional Order.

If you wish to have the Provisional Order changed or set aside sooner than the Rules of Court normally allow and can show good cause for this, you should approach the Applicant's Legal practitioner or agree, in consultation with the Registrar, on a suitable hearing date. If this cannot be agreed or there is great urgency, you may make a chamber application on notice to Applicant, for directions from a Judge as to when the matter can be argued.

TERMS OF THE FINAL ORDER SOUGHT

IT IS ORDERED THAT:

You should cause to this Honourable Court why a Final Order should not be made in the following terms:

1. That Stand No. Lot 1 of Stand 42 Four Winds Township (9 Victoria Avenue), Bulawayo (80 River Close) be and is hereby declared executable and be sold by the City of Bulawayo by public auction and the proceeds thereof used to pay whatever amount is owed to the City of Bulawayo in terms of Rates and any costs incurred as a result of this Application. The balance of the proceeds, if any, should be paid to the Guardians Fund.
2. That the costs of suit be payable by Respondent.

INTERIM RELIEF SOUGHT:-

Pending the final determination of this matter, it is ordered:

1. That 1st and 2nd Respondents, and all persons having or pretending to have any right or Title to Stand No. Lot 1 of Stand 42 Four Winds Township (9 Victoria Avenue), Bulawayo must appear and establish their claims to the same to this Honourable Court on the 30th May 2017 at 10:00 am or be forever barred therefrom.
2. That only the Provisional Order be served on the Respondent and that such service be effected by publication once The Sunday News.
3. That any person named in order No. 1 above be and is hereby directed to uplift a copy of the Applicant's Chamber Application in this matter from Messrs Coghlan and Welsh, Legal Practitioners, 2nd Floor, Barclays Bank Building, 8th Avenue/JMN Nkomo Street, Bulawayo before the return dated of this order.

SERVICE OF ORDER

That the Applicants' Legal Practitioners be and are hereby given leave to serve a copy of this order in terms of the Order 2 of the Interim Relief Sought.

BY THE JUDGE

DEPUTY REGISTRAR

/MN