

CHIPO MUNGUMA  
versus  
MUSANHU FAMILY TRUST  
and  
HIPPO VALLEY ESTATES  
and  
MASTER OF HIGH COURT  
and  
CECIL MADONDO IN HIS CAPACITY AS THE EXECUTOR  
and  
GEORGE MUSANHU

HIGH COURT OF ZIMBABWE  
MUSHORE J  
HARARE, 28 January & 24 June 2020

### **Ruling**

Applicant in person  
Respondent in person

MUSHORE J: This matter was placed before NDEWERE J on the 1<sup>st</sup> August 2019.

After she heard the parties, she determined that both matters (HC 8625/17 & HC 8626/17) required case management.

Both parties as they appeared before me were self actors. This is an application made to determine how the case ought to be managed to bring a final resolution to the dispute between the parties. I referred the parties to the comments made by MAFUSIRE J in HMA 19/19 in which the exact same facts and issues were ventilated before him. He noted that the continuation and unnecessary disputes since 2006 which have clogged up the High Court's processes needed to end efficaciously. MAFUSIRE J's judgment pertains to the granting of spoliation order. MAFUSIRE J ordered that the Abe Family Trust be granted "peaceful and undisturbed possession the immoveable property of the State; being subdivision 5 of farm 7 +8 Hippo Valley and the farm house thereon by the applicant in the present matter.

In the present matter I determined that the next and final phase of the dispute fell under the Master of the High Court because the dispute now centered upon the administration of the Trust. The Master of the High Court was in the process of administering the trust and that the process is yet to be finalized. What stood in the way of the matter were two default judgments operating against the applicant under case numbers HC2197/15 and HC 2198/15. The applicant demonstrated to me that she was never served with those court applications and that George Mushanhu obtained the judgments unprocedurally. I was disposed to set both default judgments aside as the applicant had demonstrated that she never received any notice of the litigation in both matters. I thus granted the order for rescission sought.

For the avoidance of doubt; I declared the Airward Farming Aube Musanhu Family Trust registered under number MA0002869/19 to be the lawfully registered trust upon which the Master would continue to administer.

In the result I effectively disabused the parties of the notion that the High Court is seized with the dispute. Quite the opposite is true in that a High Court judge has no role in administering trusts.

The parties were accordingly to revert to the Master of High Court who has the necessary jurisdiction to dispose of this matter.

I gave the following order:

1. The default judgments granted and operating against the applicant under case numbers HC 2197/15 and HC 2198/15 be and are hereby set aside.
2. The Notarial Deed of trust called "Notarial Deed of Trust Airward Farming Aibe Musanhu Trust, registration number MA0002869/2019 be and is hereby declared the lawfully registered trust for the purposes of administration of the Estate and Management of the Trust on behalf of the trustees and the beneficiaries therein.
3. The fifth respondent shall pay the costs of this application on a higher scale.