

**Moldon Marketing (Pvt) Ltd
Versus
F Mpoperi**

HIGH COURT OF ZIMBABWE
KAMOCHA J,
HARARE, 22 October, 2003

Mrs *Chipetesa* for the applicant
Mr *Musemburi* for the respondent

KAMOCHA J: This application was brought on a certificate of urgency. After hearing legal practitioners representing the respective parties I dismissed the application with costs. The applicant's legal practitioners have requested for written reasons for the dismissal of the application. These are they.

The parties appeared before a labour relations officer who made a decision in favour of the respondent. On 20 May, 2002 the applicant inadvertently noted an appeal with the labour relations tribunal instead of appealing to a senior labour relations officer. Five months down the line the applicant realised its mistake and then launched an application for condonation without applying for rescission at the same time. The respondent was not aware of any application for rescission even at the time the urgent chamber application was argued. The applicant could not produce any such application.

The urgent chamber application had other defects. For instance the applicant's founding affidavit was full of argumentative and irrelevant material which had to be struck off. It was also pregnant with case law just like heads of argument. The draft order was in the wrong form. Applicant should have used form 29C. Further the draft order sought to order the deputy sheriff not to proceed to execute against a judgment without making him a party to the proceedings.

The matter was handled in such a perfunctory fashion right from the on set up to the time it was argued that its fate was its dismissal with costs.

Accordingly it was dismissed with costs.

Mkuhlani Chiperesa, applicant's legal practitioners
Madanhi & Associates, respondent's legal practitioners