

IN THE HIGH COURT FOR ZAMBIA  
AT THE COMMERCIAL REGISTRY  
HOLDEN AT LUSAKA  
(Civil Jurisdiction)

2013/HPC/0414

**BETWEEN:**

JAN NICOLAS COSTHUIZEN  
LEONE ANNE COSTHUIZEN  
JANNE LOURENCE COSTHUIZEN  
DALE QUINTONE GOOSEN



1<sup>ST</sup> PLAINTIFF  
2<sup>ND</sup> PLAINTIFF  
3<sup>RD</sup> PLAINTIFF  
4<sup>TH</sup> PLAINTIFF

**AND**

STANDARD CHARTERED BANK ZAMBIA PLC  
NITESH PATEL  
JOHN STANLEY WARD

1<sup>ST</sup> DEFENDANT  
2<sup>ND</sup> DEFENDANT  
3<sup>RD</sup> DEFENDANT

**BEFORE HON. MADAM JUSTICE PRISCA MATIMBA NYAMBE, SC  
AT LUSAKA IN CHAMBERS**

For the Plaintiffs: Mr. L M Mukande  
*M L Mukande & Company*

For the Defendants: Mr. M Ndalameta  
*Musa Dudhia & Company*

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**RULING**

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This is the 1<sup>st</sup> Plaintiff's application for leave to extend time within which to comply with Orders for Direction issued by the Court on 6<sup>th</sup> October, 2014.

Relevant to this application is the fact on 9<sup>th</sup> December, 2014 the Defendants' Advocates filed an Order Dismissing Plaintiffs' Action relying on the fact that paragraph 7 of the Orders for Directions provided that: "*should the Plaintiffs default in complying with these directions, their action will stand dismissed*".

However paragraph 8 of the said Orders provided that: "*there shall be liberty to apply*". Meaning the parties were at liberty to apply to amend the Orders for Directions. Clearly there is a contradiction in the Orders for Direction. On one hand it is ordered that there shall be liberty to apply while stating that should the Plaintiffs default in complying with these directions, their action shall stand dismissed. I realized this when perusing the Defendants' Order Dismissing Plaintiffs' Action filed on 9<sup>th</sup> December, 2014. With the above noted contradiction I was constrained to give effect to the Order Dismissing the Plaintiffs' action.

I have reflected on this matter for some time. While I concede that rules of Court are meant to be respected and **Mr. Ndalameta** is on firm legal ground to remind the Court of this fact, nevertheless as the contradiction in the Orders for Direction is entirely the Court's, I will resolve the contradiction in favour of the Plaintiffs.

I therefore Order that the Plaintiffs shall comply with the Orders for Directions within thirty (30) days from the date of this Ruling. In default the matter shall stand dismissed.

For their non compliance with Orders for Directions costs are awarded to the Defendants to be paid before the Plaintiff can proceed further in this action.

Matter will come up for Status Report on 11<sup>th</sup> June, 2015 at 09:30 hours.

Dated this...24<sup>th</sup>...day of ...April.....2015

  
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**Prisca M. Nyambe, SC**  
**JUDGE**