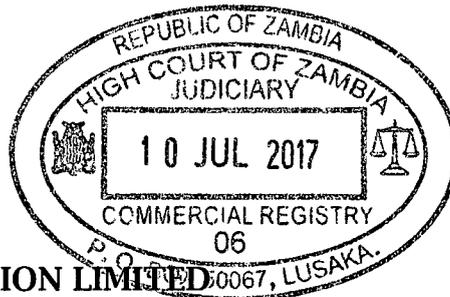


IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2012/HPC/0174



BETWEEN:

STATUS MINERAL EXPLORATION LIMITED

PLAINTIFF

AND

OCEANA ORE LIMITED

1ST DEFENDANT

MAGGIE MUSONDA

2ND DEFENDANT

Before: Hon. Lady Justice Dr. W. S. Mwenda at Lusaka this 10th day of
July, 2017.

For the Plaintiff: Mr. W. Phiri of Messrs Keith Mweemba Advocates

For the Defendant: Not in Attendance

RULING

Legislation referred to:

1. *Order 52 rule 2 of the Rules of the Supreme Court, 1999 Edition (White Book)*

This is an ex-parte application by the Plaintiff for leave to commence contempt proceedings against the 2nd Defendant pursuant to Order 52 rule 2 of the Rules of the Supreme Court, 1999 Edition (White Book).

Order 52, rule 2 of the Rules of the Supreme Court, 1999 Edition states as follows:

"2. - (1) No application to a Divisional Court for an order of committal against any person may be made unless leave to make such an application has been granted in accordance with this rule.

(2) An application for such leave must be made ex parte to a Divisional Court, except in vacation when it may be made to a judge in chambers, and must be supported by a statement setting out the name and description of the applicant, the name, description and address of the person sought to be committed and the grounds on which his committal is sought, and by an affidavit, to be filed before the application is made, verifying the facts relied on.

(3)..."

The application was made on 23rd January, 2017 by way of Summons supported by an affidavit deposed to by one Andronikos Andonoplous, the Managing Director of the Plaintiff Company and a Statement Supporting Application for Leave to Commence Contempt proceedings as required by the said Order.

The Affidavit of Andronikos Andonoplous discloses that on 4th December, 2012 the Plaintiff obtained a judgment in default of appearance against the 2nd Defendant for the relief sought under the Writ of Summons and to that end exhibits a copy of the Judgment in Default and the Final Judgment as "AA1". The said Judgment in Default was served on the 2nd Defendant on 6th June, 2014 as evidenced by the copy of the Affidavit of Service of the said judgment in Default filed in Court on 12th June, 2014 (exhibit "AA2").

The Affidavit further discloses that despite the existence of the Judgment in Default of Appearance and a directive restraining the 2nd Defendant from further trespassing or encroaching upon the land subject of Prospecting Licence No. 8712-HQ-LPL, to which a Large Scale Mining Licence had been issued under Licence No. 14666-HQ-LML, and/or conducting illegal mining activities thereon, the 2nd Defendant has continued to contumeliously disregard the authority of any of them. To this end, the Plaintiff has exhibited a copy of the Large Scale Mining Licence as "AA3". It should be noted that the Plaintiff mentioned a Police Report regarding illegal mining

activities by the 2nd Defendant which was supposed to be exhibited as "AA3" together with the large Scale Mining Licence. However, no such Police report has been exhibited together with the Large Scale Mining Licence.

It is the Plaintiff's contention that the conduct of the 2nd Defendant is deliberate and calculated to disobey a lawful order of this Court thereby causing prejudice to the administration of justice and lowering the dignity and authority of this Court, which amounts to contempt of Court. The deponent averred that he had been advised and verily believed that the 2nd Defendant had clearly shown that she has no intention of obeying this Court's orders. Further, that the 2nd Defendant had been illegally mining in the Plaintiff's property for two weeks prior to 23rd January, 2017.

In the Statement Supporting Application for Leave To Commence Contempt Proceedings, the Plaintiff gives the grounds for relief as being that the 2nd Defendant, Maggie Musonda, who resides at Plot No.562, off Airport Road, High Cost area, Mkushi, Central Province, defied a court order obtained on 4th December, 2012 before this Court entered a Judgment in Default of Appearance against the 2nd Defendant which *inter alia*, restrained the 2nd Defendant from further trespassing or encroaching upon the land subject of prospecting Licence No. 8712-HQ-LPL, to which a Large Scale Mining Licence had been issued under licence No. 14666-HQ-LML, and/or conducting illegal mining activities. That despite being aware of the said order, the 2nd Defendant has elected to wilfully ignore it. Therefore, the 2nd Defendant's actions to ignore the said order is a deliberate act of disobedience of this Court's order and calculated to prejudice the administration of justice and lower the Court's dignity and authority and amounts to contempt of Court.

Upon perusing the Ex-parte Summons for Leave to Commence Contempt Proceedings and Affidavit Verifying Facts for an Order for Leave To Commence Contempt Proceedings as well as Statement Supporting Application for Leave To Commence Contempt Proceedings all filed in Court on 23rd January, 2017; and further, upon hearing Counsel for the Plaintiff for Leave to Commence Contempt Proceedings, **it is hereby ordered and**

directed that the Plaintiff be and is hereby granted leave to commence contempt proceedings against the Defendant.

Dated at Lusaka this 10th day of July, 2017.


W. S. Mwenda (Dr)
HIGH COURT JUDGE