

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)**

2022/HP/1352

**IN THE MATTER OF: THE COMPETITION AND CONSUMER
PROTECTION ACT NO. 24 OF 2010**

**IN THE MATTER OF: SECTION 75 OF THE COMPETITION AND
CONSUMER PROTECTION ACT NO. 24 OF
2010**

**IN THE MATTER OF: AN APPEAL AGAINST THE DECISION OF
THE COMPETITION AND CONSUMER
PROTECTION TRIBUNAL**

BETWEEN:

EL GIBOR ENTERPRISES LIMITED

APPLICANT

AND

COMPETITION AND CONSUMER

PROTECTION COMMISSION

1ST RESPONDENT

LEAH ZULU

2ND RESPONDENT

**BEFORE THE HONOURABLE JUSTICE S. V. SILOKA ON THIS 21ST
DAY OF FEBRUARY, 2025.**

For the Applicant: Ms. Mary Mujajati – Messrs. Leonard Lane Partners

For the 1st Respondent: Mr. C. Bwalya – In-house Counsel

RULING

CASES REFERRED TO:

1. *Hutten Vs Harris (1892) AC 560; and*

2. *Trinity Engineering (Pvt) Limited Vs Zambia National Commercial Bank Limited (SCZ Judgment No. 4 of (1997) (1997) ZMC 13.*

LEGISLATION REFERRED TO:

1. *Order 3 Rule 2 of the High Court Rules; and*
2. *Order 20 Rule 11 of the Rules of the Supreme Court Practice (1999) (White Book).*

1.0 INTRODUCTION

- 1.1 This is an Ex-Tempore Ruling, on the 1st Respondent's Summons for an Order for Correction of an Accidental Slip/Omission in the Judgment delivered by this Court dated the 17th day of October, 2024.
- 1.2 The Application was accompanied by an Affidavit in Support, Skeleton Arguments and List of Authorities dated 11th December, 2024.

2.0 AFFIDAVIT IN SUPPORT

- 2.1 The Affidavit in Support was deposed to by Chitupula Andrew Bwalya of Lusaka in the Lusaka Province of the Republic of Zambia.

- 2.2 It was averred that he was in the employ of the Respondent herein and Counsel seized with the conduct of this Matter and therefore competent to swear to the contents of this Affidavit from facts within his personal knowledge.
- 2.3 That on 17th December, 2024, this Honourable Court rendered its Ruling in this Matter for want of jurisdiction.
- 2.4 That at page 17, paragraph 7.2 of the Ruling, the Court condemned the 1st Respondent to costs, despite having dismissed the Applicant's Application as shown at paragraph 7.1 of the Ruling as exhibited by "**CAB1**".
- 2.5 That the 1st Respondent is of the view that this was an error on the part of the Court.

3.0 SKELETON ARGUMENTS IN SUPPORT

- 3.1 It was Counsel's submission that this Court has jurisdiction to entertain this Application pursuant to **Order 3 Rule 2** of the **High Court Rules** and **Order 20 Rule 11** of the **Rules of the Supreme Court Practice (1999) (White Book)**.
- 3.2 The 1st Respondent also drew the Court to the case of **Hutten Vs Harris**⁽¹⁾ where it was observed as follows:

“Where an error of that kind has been committed, it is always within the competency of the Court if nothing has intervened which would render it inexpedient or inequitable to do so, to correct the Record in order to bring it into harmony with the Order which the Judge obviously meant to pronounce. The correction ought to be made on motion and is not a matter either for appeal or re-hearing”.

4.0 THE HEARING

4.1 This being an Ex-Parte Application, the Hearing was dispensed with and Ruling rendered based on what was filed on Record.

5.0 ANALYSIS AND DECISION

5.1 I have carefully considered and addressed my mind to the Application before me and I am satisfied that the same is properly before me on the strength of **Order 20 Rule 11** of the **RSC, 1999** crouched as follows:

“Clerical mistakes in Judgments or Orders, or errors arising therein from an accidental slip or omission, may at any time be corrected by the Court on motion or summons without appeal”.

5.2 I also find sanctuary in the case of **Trinity Engineering (Pvt) Limited Vs Zambia National Commercial Bank**⁽²⁾ and the case of **Hutten Harris** relied on by Counsel for the proposition that the

Court has jurisdiction to correct the Record in order to bring it into harmony with the Order which the Judge obviously meant to pronounce.

5.3 Having perused the Ruling dated the 17th day of October, 2024, I have indeed established that I inadvertently condemned the 1st Respondent with costs as per paragraph 7.2 of the Ruling instead of the Applicant following the dismissal for want of jurisdiction of the Applicant's Application. I therefore find that this is a fit and proper case for me to invoke my powers under **Order 20 Rule 11 RSC** and **Order 3 Rule 2** of the **High Court Rules**.


5.4 As correctly pointed out by the 1st Respondent, in the Ruling by this Court dated 17th October, 2024, it is apparent that the intention of the Court was to condemn the Applicant in costs as their Application was dismissed for want of jurisdiction. However, due to an apparent omission, paragraph 7.2 of the Ruling incorrectly indicates that the 1st Respondent was to bear the costs.

5.5 In consequence, I order and direct that my reference to paragraph 7.2 in the Ruling dated the 17th day of October, 2024, be corrected to read that the Applicant is in consequence condemned in costs

to be taxed in default of agreement to give true meaning and effect to the Ruling in furtherance of justice.

5.6 For avoidance of doubt, the Ruling dated the 17th of October, 2024, shall be read as one with the Ex-Tempore Ruling delivered on date hereof.

DELIVERED AT LUSAKA THIS 21ST DAY OF FEBRUARY, 2024.


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S. V. SILOKA
HIGH COURT JUDGE

