



IN THE HIGH COURT OF MALAWI

CIVIL DIVISION

PRINCIPAL REGISTRY

MISCELLANEOUS CIVIL APPLICATION NUMBER 39 OF 2022

BETWEEN

SHIRAZ FERREIRAI.....CLAIMANT

AND

THE DIRECTOR OF THE ANTI-CORRUPTION  
BUREAU.....DEFENDANT

Before Judge Jack N'riva  
Mr. Maele for the claimant  
Mr. Imran Saidi for the defendant  
Nkangala, Court Clerk

RULING

The claimant applied for a variation of the restriction notice issued by the Director of the Ant-Corruption Bureau to Eco bank Limited and FDH Bank Limited. The defendant argued that to vary the restriction notices may jeopardise the entire investigation of the matter. The defendant argued that in the case that claimant is convicted of an offence and the state wishes to enact a forfeiture, it may not be able to do so if the funds in the accounts are depleted. When the matter came for hearing, the parties agreed that the application was overtaken by events in that the restriction order had expired by the operation of the law.

Under section 23(1) of the Corrupt Practices Act,

*Where the Bureau has instituted an investigation or a prosecution in respect of an offence under this Act, the Director may, by written notice to any person, direct that such person shall not, without the written consent of the Director, dispose of or otherwise deal with any property, or proceed with any contract, transaction, agreement or other arrangement, specified in such notice, which is the subject of, or is otherwise implicated in, such investigation or prosecution.*

Under subsection (3),

A notice issued under subsection (1) shall have effect from the time of service and shall continue in force for a period of three months or until cancelled by the Director, whichever is earlier, but may upon expiry be renewed for further periods of three months on application to a magistrate showing cause why the notice should be renewed.

By the time of the application, the restriction notice had expired. To make an order on the notice would have been of no useful consequence. Counsel for the claimant, nonetheless, urged the Court to order the defendant to be drafting restriction notices in such a way as to show the expiry date.

Be that as it may, that was not the application that was before the Court.

To make the order would be to go beyond the business the Court was came to decide upon. The order sought is akin to a mandatory or a declaratory order. The claimant had to specifically apply for that. Agenda in Court, in cases of applications, are set by the application itself. The Court has to decide the application that is before it. The Court, therefore, desist from making the order.

The Court makes no order on costs.

**Made** the 26<sup>th</sup> day of August 2022



J N'RIVA

JUDGE