



PRESS RELEASE

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UPDATE ON CHIADZWA DIAMOND MINING LITIGATION CASE

On the 18th of December 2009, the Urgent Chamber Application filed by the Chiadzwa Community Development Trust with the assistance of the Zimbabwe Environmental Law Association (ZELA) was heard before Justice Musakwa at the High Court. However, the application was dismissed as an urgent chamber application, meaning that the judge did not in his opinion think the matter is urgent. All the respondents had filed opposing papers and were represented at the hearing. The respondents raised preliminary points against the application alleging that it was not urgent, that the applicants had approached the wrong forum and that there were alternative remedies available to the applicants, such as suing the authorities for compensation in terms of the Land Acquisition Act in the event that they were dissatisfied with the compensation paid to them. In addition, the respondents alleged that there was no need for the relief sought since the government was not on the verge of relocating any villagers from the area. On the contrary, the Minister of Local Government alleged that government was in the process of constructing adequate infrastructure for the affected families at relocation site. Such infrastructure would include boreholes for water supply, clinics, schools, agricultural land and 4 roomed houses. Teams of officers were allegedly on the ground assessing the assets held by the affected villagers and the data would be used to compile the levels of compensation payable to the villagers after taking into account the assets and amenities provided at the relocation site.

The applicants argued that there was no information available to them about what infrastructure would be provided for them at the relocation site, what compensation they would be paid, when they would be moved and no EIA had been done covering these issues. In fact mining had commenced before an EIA licence had been obtained from the Environmental Management Authority. The applicants had received credible information from one of the officers of the mining company that trucks were to be sent during the month of December 2009 to move people off the land to pave way for mining activities and this is what had precipitated the application.

Even though the application was dismissed, the application achieved the desired results. The applicants finally obtained information about government's plans regarding their fate. The government ministers swore under oath that no one was going to be evicted until the construction of the infrastructure had been completed and land for tilling had been prepared and was ready. No villager is thus going to be evicted without an appreciation of what they are going to receive in return. The evictions threatened for December 2009 were also successfully stopped.

WAY FORWARD

It is clear that this matter has not been finally resolved. There is nothing to guarantee that the government will comply with the undertakings made in the Ministers' affidavits. It may disregard them. In that event, the villagers have the option of approaching the courts again for relief, using the ministers' affidavits against them.

The adequacy of the compensation is a matter for the villagers to assess. As the ministers stated, the compensation does not pertain to the monetary compensation only, but also the infrastructure that is going to be provided at the relocation site. In that regard, the Zimbabwe Environmental Law Association and its partners will ensure that information is made available to the communities about what government's plans are and then hear the response from the affected villagers. It would also be useful for the villagers through their Trust, to monitor the progress at ARDA Transau regarding the construction of the infrastructure. ZELA will also monitor the progress regarding the EIA by checking with the EMA offices in the region whether the mining companies have now obtained the licences. The EIA report would also confirm the plans being made for the relocation of the affected people.

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