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CONTEMPT OF COURT: UNDERSTANDING ITS LEGAL FRAMEWORK AND IMPLICATIONS.

i. Introduction:

1. Contempt of court is a critical legal mechanism designed to uphold the authority and dignity of the judiciary. It serves as a deterrent against the willful and mala fide non-compliance of court orders. This article aims to provide a comprehensive understanding of the legal framework governing contempt of court, the procedural requirements, and the implications of being held in contempt.

ii. Definition:

2. Contempt of court is defined as the willful and mala fide non-compliance with a court order. **See Mukambirwa & Others v The Gospel of God Church International 1932 SC 8/24.** It is a serious legal matter that can result in fines or imprisonment.

iii. Procedure for instituting a Contempt of Court Application

3. According to Section 79 of the High Court Rules 2021, addressing contempt requires initiating proceedings via a chamber application which must be incorporate the following:
 - a. The application should distinctly set forth the grounds of complaint.
 - b. An affidavit supporting the facts must accompany the application.

- c. If the court acts on its own initiative, no affidavit is required, and notice is issued by the registrar. See **Rule 79 of the High Court Rules 2021**.

iv. Essential Requirements establishing Contempt of Court

1. There must be an extant order of court.
2. The order must have been served on the individual concerned, and the individual must know what it requires them to do or not do. See **Zion Apostolic Faith Mission Church v Pedzisai J 19-HH-495 ; Tavengwa G v Tavengwa C 20-HH-681**.
3. The order must not have been complied with.
4. The non-compliance on the part of the defaulting party must have been willful and mala fide. See **Dynamic success (Private) Limited v Sinohydro corporation Limited Zimbabwe HH 413-24**, in which the court emphasized that civil contempt of court is the respondent's willful and mala fide disobedience of a court order. The primary purpose of contempt of court procedure is to compel compliance with the court's order as well as to protect and uphold the dignity and respect of the court and its processes.
5. The requirements to be satisfied for contempt proceedings were outlined in the case **of Pedzisai Miriam Lilieth Garwe v Daniel Garwe HH 641/18**, as follows:
 - 5.1 An order was granted by a competent court.
 - 5.2 The respondent was indeed served with the said order or that it was brought to his attention.

- 5.3 The respondent has either disobeyed it or has neglected to comply with it. This case further highlighted that the onus is on the applicant to prove these elements on a balance of probabilities.

v. Legal Consequences of Contempt of Court

6. Contempt of court carries significant legal consequences, including fines and imprisonment. See **Rule 79 of the High Court rules 2021**.
7. If a fine is imposed, the registrar provides the sheriff with a writ for execution.
8. For imprisonment, a writ of personal attachment and committal to prison is issued.
9. The sheriff or peace officer executes the writ immediately upon delivery.

vi. Service of Chamber Application for Contempt

10. The enforcement of judgments or court orders through contempt proceedings necessitates personal service of the order on the individual required to comply, as outlined in Rule 15(12) of the High Court Rules 2021. The necessity of personal service lies in ensuring the individual is fully aware of the court's demands, thereby safeguarding their rights and preventing inadvertent non-compliance. Exceptions to personal service are rare and typically require the presence of unusual circumstances, as personal liberty is at stake. This principle is crucial in maintaining the integrity of legal proceedings and ensuring that enforcement actions are just and fair.
11. See ***Rule 15(12) Of the High Court rules 2021, Mutyambizi v Goncalves & Anor & The Sheriff of Zimbabwe N.O. (HC 7137 of 2013) [2013] ZWHHC 345 (8 October 2013); Mugari (Nee Tapfuma) v Mugari (689 of 2022) [2022] ZWHHC 689 (12 October 2022)***

vii. Conclusion:

Contempt of court is a powerful tool to ensure adherence to court orders and maintain the judiciary's integrity. Understanding its legal framework and implications is crucial for both legal practitioners and individuals subject to court orders. By adhering to the procedural requirements and respecting the court's authority, parties can avoid the severe consequences associated with contempt of court.

Please note that this article is intended for informational purposes only. It is not a substitute for professional legal advice. For further clarity and legal assistance, please contact the writer directly.

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