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**IN THE HIGH COURT OF ZAMBIA  
AT THE PRINCIPAL REGISTRY  
HOLDEN AT LUSAKA**  
*(Civil Jurisdiction)*



2018/HP/0803

**IN THE MATTER OF: THE PROTECTION OF FUNDAMENTAL  
RIGHTS, RULES 1969, STATUTORY  
INSTRUMENT NO 156 OF 1969**

AND

**IN THE MATTER OF: ARTICLE 28 OF THE CONSTITUTION OF  
ZAMBIA, THE CONSTITUTION ACT, CHAPTER  
1, VOLUME 1 OF THE LAWS OF ZAMBIA**

AND

**IN THE MATTER OF: ARTICLE 16 OF ZAMBIA'S BILL OF RIGHTS  
ON THE PROTECTION OF PROPERTY IN THE  
1996 CONSTITUTION, CHAPTER 1, VOLUME  
1 OF THE LAWS OF ZAMBIA**

AND

**IN THE MATTER OF: ARTICLES 7, 8 AND 17 OF THE UNIVERSAL  
DECLARATION OF HUMAN RIGHTS**

AND

**IN THE MATTER OF: ARTICLES 3 AND 14 OF THE AFRICA  
CHARTER ON HUMAN AND PEOPLE'S  
RIGHTS**

AND

**IN THE MATTER OF: SECTIONS 46, 47, 49, 82, 86 OF THE  
COMPETITION AND CONSUMER  
PROTECTION ACT NO 24 OF 2010**

AND

**IN THE MATTER OF: THE DECISION OF THE BOARD OF THE  
COMPETITION AND CONSUMER  
PROTECTION COMMISSION DATED 13<sup>th</sup>  
JUNE 2016 IN CAUSE NO CCP/CON/162/TC**

BETWEEN:

**DR PATRICK NKHOMA**

**PETITIONER**

AND

**SOUTHERN CROSS MOTORS LIMITED  
THE COMPETITION AND CONSUMER PROTECTION  
COMMISSION**

**1<sup>st</sup> RESPONDENT  
2<sup>nd</sup> RESPONDENT**

**THE ATTORNEY GENERAL**

**3<sup>rd</sup> RESPONDENT**

**BEFORE HON MRS JUSTICE S. KAUNDA NEWA IN CHAMBERS THIS 16<sup>th</sup>  
DAY OF JANUARY, 2019**

*For the Petitioner : Ms M. Namfukwe, Kalokoni and Company*

*For the 1<sup>st</sup> Respondent : Ms Mwape Bwalya and Ms Chuma Kampasa,  
Mwenye and Mwitwa Advocates*

*For the 2<sup>nd</sup> Respondent : Ms M. Mulenga, In house Counsel*

*For the 3<sup>rd</sup> Respondent : Ms C.S Mulenga, State Advocate*

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## **R U L I N G**

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CASES REFERRED TO:

- 1. *Kufamuyeke Mukelabai V Ester Nalwamba, Commissioner of Lands and Attorney General 2013 Vol 2 ZR 312***
- 2. *Phillip Steward Wood V The Attorney General and NAPSA 2013/HP/1600***

LEGISLATION REFERRED TO:

- 1. *The High Court Rules, Chapter 27 of the Laws of Zambia***
- 2. *The Rules of the Supreme Court of England, 1999 edition***

This is a ruling on a preliminary issue raised by 2<sup>nd</sup> Respondent on 30<sup>th</sup> May, 2018, and on an application by the 1<sup>st</sup> Respondent to be misjoined from the proceedings filed on 6<sup>th</sup> July, 2018, the applications having been made pursuant to Order 14A of the Rules of the Supreme Court of England, 1999 edition, and Order 14 Rule 5 (2) of the High Court Act, Chapter 27 of the Laws of Zambia respectively.

On the preliminary issue raised, Counsel for the 2<sup>nd</sup> Respondent stated that they relied on the affidavit filed in support of the application on 30<sup>th</sup> May, 2018, as well as the affidavit in reply and the skeleton arguments filed on 25<sup>th</sup> October, 2018. It was stated that Counsel is in house, and there was therefore no requirement to file a notice of appointment as advocates. Further, that in line with Order 11 of the High Court Rules, conditional appearance is entered to a writ, and not for matters commenced by way of petition.

It was further stated that there is no where in the High Court Rules where provision is made for the raising of preliminary issues, and that is why they had relied on Order 14A of the Rules of the Supreme Court of England, 1999 edition. Counsel submitted that Order 5 Rule 15 of the High Court Rules is clear on what should be contained in affidavits, and the question was how was that 2<sup>nd</sup> Respondent expected to file an answer to the petition when it had taken issue with the Petitioner's affidavit.

Still in submission, Counsel stated that it was clear that the 2<sup>nd</sup> Respondent could only proceed to file an answer once the preliminary issues raised had been determined by the court, and she reiterated that the paragraphs in the petition that contain legal arguments should be expunged therefrom.

Counsel for the 1<sup>st</sup> and 3<sup>rd</sup> Respondents had nothing to say on the preliminary issue raised.

In response, Counsel for the Petitioner stated that they opposed the application and relied on the affidavit in opposition and the skeleton arguments filed on 18<sup>th</sup> June, 2018. It was contended that paragraphs 24, 25 and 29 of the affidavit in support of the petition do not contain

extraneous matters by way of legal arguments or conclusions. Counsel submitted that she had deliberately left out paragraph 23 as it was not raised by the 2<sup>nd</sup> Respondent in the Notice to Raise Preliminary Issues.

It was stated that the Petitioner had disclosed the source of the information, and by doing that had merely stated what he had heard or experienced from his interaction in various countries that he had travelled to, as well as from the interactions with his advocates. Therefore, the said paragraphs do not conclusions or legal arguments because by disclosing the source of the information, the Petitioner had acknowledged that only the court can make a final determination.

There was no reply.

On the application for misjoinder, Counsel for the 1<sup>st</sup> Respondent submitted that they relied on the affidavit filed in support of the application on 6<sup>th</sup> July, 2018 as well as the skeleton arguments. She stated that a reading of both the petition and the affidavit in support thereof revealed that the claim relates to the regulatory expropriation which is alleged to be in contravention of Article 16 of the Bill of Rights. That paragraph 12 of the petition shows the law the Petitioner has taken issue with, and the said law relates to only the 2<sup>nd</sup> Respondent.

The submission was further that the reliefs claimed by the Petitioner in the petition include declarations that can only be acted upon by the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents. As such, the petition and affidavit do not clearly state what case the 1<sup>st</sup> Respondent shall meet, and it believes that the Petitioner has not raised issue with it. Reference was made to the provisions of Order 14 Rule 5 of the High Court Rules, stating that the

provision is clear that the Judge or the Court may at any stage of the proceedings order parties that are improperly joined to be struck out.

Counsel went on to submit that they also relied on Order 15 Rule 6(2) of the Rules of the Supreme Court of England, 1999 edition which also provides for misjoinder of parties. The case of **PHILLIP STEWARD WOOD V THE ATTORNEY GENERAL AND NAPSA 2013/HP/1600** was further relied on, arguing that Hon Mrs Justice J.Z Mulongoti misjoined the 1<sup>st</sup> Defendant from the proceedings as there was no cause of action disclosed against it. It was submitted that the claims as set out are capable of being resolved between the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, and it was prayed that the 1<sup>st</sup> Respondent be misjoined from the proceedings.

Counsel for the Plaintiff in response stated that they opposed the application and relied on the affidavit in opposition filed on 26<sup>th</sup> November, 2018. Counsel submitted that while they agreed with Counsel for the 1<sup>st</sup> Respondent that the issue of expropriation only relates to the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, this is not the only issue that the petition has raised.

She submitted that a perusal of the petition and the affidavit in support thereof reveals that the Petitioner has a cause of action against the 1<sup>st</sup> Respondent, and paragraph 28 of the affidavit verifying the petition shows that the 1<sup>st</sup> Respondent has not paid the Petitioner for the damage caused to his property, and for the inconvenience caused during the period the car was being worked on, and he had to make arrangements for alternative transport.

Further, that in addition to the declarations sought in the petition, the Petitioner asks to be compensated for the loss that he suffered, and

should the court decide to grant the Petitioner that relief, the 1<sup>st</sup> Respondent will be affected. Therefore, the Petitioner has disclosed a cause of action against the 1<sup>st</sup> Respondent, and it is in the interests of justice that the 1<sup>st</sup> Respondent should remain a party to the proceedings, and the 1<sup>st</sup> Respondent has not been improperly joined to the proceedings. Counsel prayed that the application be dismissed with costs to the Petitioner.

In reply, it was stated that the earlier arguments were reiterated and that paragraph 27 of the affidavit verifying facts shows that the 1<sup>st</sup> Respondent has paid the penalties to the 2<sup>nd</sup> Respondent which should have gone to the Petitioner as the person who had suffered loss. That this goes to show that the 1<sup>st</sup> Respondent paid the monies as an order from the 2<sup>nd</sup> Respondent and was under no obligation to pay the money to the Petitioner. The submission was further that paragraph 28 of the affidavit verifying the facts does not show under what legal obligation the 1<sup>st</sup> Respondent was to pay the Petitioner, and that the prayer for compensation does not state from whom the compensation is being sought.

Thus, the pleadings do not clearly show what relief the Petitioner seeks from the 1<sup>st</sup> Respondent. Counsel stated that it is trite that a party is bound by its pleadings, and as the pleadings do not disclose what the 1<sup>st</sup> Respondent must meet, it should be struck out from the proceedings.

I have considered the applications. I will start with the preliminary issue. It was raised pursuant to Order 14A of the Rules of the Supreme Court of England, 1999 edition which provides that;

***“(1) The Court may upon the application of a party or of its own motion determine any question of law or construction of any document arising in any cause or matter at any stage of the proceedings where it appears to the Court that -***

***(a) such question is suitable for determination without a full trial of the action, and***

***(b) such determination will finally determine (subject only to any possible appeal) the entire cause or matter or any claim or issue therein”.***

The preliminary issue raised is for an order to expunge paragraphs 24, 25 and 29 from the affidavit verifying the petition, sworn by Dr Patrick Nkhoma, on the grounds that the same contain extraneous matters by way of legal of arguments and conclusions, contrary to Order 5 Rules 15 and 16 of the High Court Rules, Chapter 27 of the Laws of Zambia.

The law relating to affidavits is found in Order 5 Rules 11-20 of the High Rules, Chapter 27 of the Laws of Zambia. Rules 15 and 16 of Order 5 of the High Court Rules provides that;

***“15. An affidavit shall not contain extraneous matter by way of objection or prayer or legal argument or conclusion.***

***16. Every affidavit shall contain only a statement of facts and circumstances to which the witness deposes, either of his own personal knowledge or from information which he believes to be true”.***

Paragraphs 24, 25 and 29 of the affidavit verifying the petition state as follows;

24. That in my academic career, I have travelled to Australia, United States of America and the European Union and in all these countries, private citizens like me are allowed by their Government to sue individuals or Companies that cause harm to consumers by unfair trading practices such as those committed by the 1<sup>st</sup> Respondent in this matter.

25. That may lawyers tell me and I verily believe the same to be true that the Government's taking of the proceeds of the decision rendered by the 2<sup>nd</sup> Respondent's Board in my favour in form of administrative penalties calculated at 5% or 10% of the offending Company's annual turn over amounts to confiscation or expropriation of my property by the State without any form of compensation to me.

29. That may lawyers tell me and I verily believe the same to be true that my rights to property given to me by our Bill of Rights and the International Conventions to which Zambia is a signatory have been infringed in relation to me.

Order 5 Rule 16 of the High Court Rules states that;

***“Every affidavit shall contain only a statement of facts and circumstances to which the witness deposes, either of his own personal knowledge or from information which he believes to be true”.***

The above provision is very clear that an affidavit shall contain only facts and circumstances which the witnesses deposes to, and that this deposition shall be from the witness's own personal knowledge or from information which he believes to be true. In this case the petition filed by the Petitioner on 23<sup>rd</sup> April, 2018 seeks the following reliefs;



1. *A declaration that a citizen of Zambia who lodges a complaint against a person or an Enterprise under the provisions of the Competition and Consumer Protection Act No 24 of 2010 (The Act) has personal property rights in the judgment and/or decision rendered in his favour by the Board of the Competition and Consumer Protection Commission or the Competition and Consumer Protection Tribunal.*
2. *A declaration that the Government's taking of the proceeds of the Judgment or decision rendered in favour of a citizen under the Act in the form of administrative penalties calculated at 5% or 10% of the offending person's or enterprise's annual turnover without any provision for civil law remedies such as payment of compensation or damages to the injured citizen is tantamount to regulatory expropriation, taking or confiscation of a citizen's property by the State without compensation contrary to Article 16 of the Zambian Bill of Rights and is in breach of Zambia's International commitments to the protection of property of its citizens and therefore illegal and unconstitutional.*
3. *A further declaration that the failure by the Act to provide for private enforcement of the breaches of the Competition and Consumer Protection Act deprives the citizens of Zambia the right to access to civil law remedies such as compensation, damages, and equitable remedies contrary to Articles 7 and 8 of the Universal Declaration of Human Rights of 1948 and Articles 3 and 4 of the African Charter on Human and People's Rights, and therefore illegal and inequitable.*

4. *An order for restitution to the Petitioner of the amounts of money collected by the 2<sup>nd</sup> Respondent from the 1<sup>st</sup> Respondent as administrative penalties.*
5. *A further order for compensation for losses suffered by the Petitioner herein.*
6. *Interest and costs.*

It can be seen from the prayers in the petition that the Petitioner seeks to challenge the law in the Competition and Consumer Protection Act No 24 of 2010. Therefore, the affidavit verifying the petition should in line with Order 5 Rule 16 of the High Court Rules, Chapter 27 of the laws of Zambia contain facts and the circumstances which the Petitioner deposes to from his own personal knowledge or information which he believes to be true. When it comes to information that a witness deposes to in an affidavit, Order 5 Rule 17 of the said High Court Rules states that;

***“When a witness deposes to his belief in any matter of fact, and his belief is derived from any source other than his own personal knowledge, he shall set forth explicitly the facts and circumstances forming the ground of his belief”.***

The Petitioner therefore, in setting out the facts and the circumstances of the petition was expected to depose to the same either from his personal knowledge or from the grounds of his belief. It is noteworthy that in stating the facts and circumstances in the affidavit, the Petitioner has laid down the facts giving rise to his claim and his pursuance for redress with the 2<sup>nd</sup> Respondent. He further deposes to how the matter was resolved and his grievance as the Competition and Consumer Protection

Act No 24 of 2010 does not provide for civil remedies. Thus, in outlining the facts and circumstances in the affidavit verifying the petition with regard to the grievance with the Act, the Petitioner could only do this by highlighting the factual position of the law and the circumstances giving rise to his claim. By doing so, the Petitioner would not be advancing legal arguments or conclusions, if he did so from his own personal knowledge or from information that he believes is true and the source of the information disclosed.

This can be seen from paragraphs 24, 25 and 29 of the affidavit and apart from alleging that the said paragraphs contain legal arguments and conclusions, the 2<sup>nd</sup> Respondent has not stated the basis for the assertions, as it is the law that is being challenged in the petition. I therefore find that the preliminary issue cannot be sustained as it has no merit.

The Petitioner in the skeleton arguments stated that before the 2<sup>nd</sup> Respondent could raise the preliminary issue, it should have by virtue of Order 14A given notice of intention to defend and then filed the preliminary issue. Further, that Counsel for the 2<sup>nd</sup> Respondent did not file a notice of appointment as advocates to signify authority to act on behalf of the 2<sup>nd</sup> Respondent.

In response to that assertion, the 2<sup>nd</sup> Respondent argued that Order X1 of the High Court Rules, Chapter 27 of the Laws of Zambia provides for the entering of conditional appearance in matters commenced by writ of summons and not by petition, and that there is nowhere in the High Court Rules that provision is made for raising of preliminary issues, hence the reliance on Order 14A of the Rules of the Supreme Court of England, 1999 edition. On the filing of the notice of appointment

advocates, Counsel for the 2<sup>nd</sup> Respondent stated that there was no need for them to file the same as they are in house Counsel.

With regard to the filing of the notice of appointment as advocates, it is trite that advocates act on the authority of their clients, and in this case Counsel for the 2<sup>nd</sup> Respondent stated that they are in house and as such did not need to file a notice of appointment as advocates. The Plaintiff did not respond to that assertion, and as such there being no basis for making the allegation, I find that it lacks merit, and I dismiss it.

On how preliminary issues are raised under Order 14A of the Rules of the Supreme Court of England, 1999 edition, Order 14A/2/3 of the said Rules of the Supreme Court of England states that the following requirements must be met in order for an application under Order 14A to stand;

***“The requirements for employing the procedure under this Order are the following:***

***(a)the defendant must have given notice of intention to defend;***

***(b)the question of law or construction is suitable for determination without a full trial of the action (para. 1 (i)(a));***

***(c)such determination will be final as to the entire cause or matter or any claim or issue therein (para. 1 (i)(h)); and***

***(d)the parties had an opportunity of being heard on the question of law or have consented to an order or judgment being made on such determination (para. 1 (3))”.***

Order XI of the High Court Rules, Chapter 27 of the Laws of Zambia was amended by Statutory Instrument No 69 of 1998 to provide as follows;

***“Order XI of the principal rules is amended in rule 1-***

***(4) Any person served with a writ under Order VI of these rules may enter conditional appearance and apply by Summons to the Court to set aside the writ on grounds that the writ is irregular or that the Court has no jurisdiction”.***

Order VI Rule 1 of the High Court Rules, states that;

***“1.(1) Except for petitions under the Constitution and Matrimonial Causes Acts and applications for writs of habeas corpus, every action in the Court shall, notwithstanding the provisions of any other written law, be commenced by writ of summons endorsed with or accompanied by a full statement of claim”.***

Therefore, looking at the two provisions, it is only where a matter is commenced by writ of summons that conditional appearance is entered where one wishes to challenge the writ for irregularity or that the court has no jurisdiction. In the case of ***KUFAMUYEKE MUKELABAI V ESTER NALWAMBA, COMMISSIONER OF LANDS AND ATTORNEY GENERAL 2013 VOL 2 ZR 312*** relied on by the Petitioner in the skeleton arguments in opposition to the preliminary issue, the matter was commenced by writ of summons, and hence the Hon Judge holding that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants could only raise the preliminary issue after appearance was entered, which was giving the notice of intention to defend.

Therefore, in my view, the failure by the 2<sup>nd</sup> Respondent to enter conditional appearance before raising the preliminary issue lacks merit as there is no such a requirement where a matter is commenced by petition. However, the question is how was the preliminary issue

supposed to be raised in this matter in light of the fact that the law requiring the filing of a conditional appearance before making an application does not apply to petitions?

Counsel for the 2<sup>nd</sup> Respondent stated that the High Court Rules, Chapter 27 of the Laws of Zambia do not contain any provisions relating to the raising of preliminary issues, hence the reliance on Order 14A of the Rules of the Supreme Court of England, 1999 edition. Any preliminary issue raised in a matter is an interlocutory application, which is heard in chambers. Order XXX Rule 1 of the High Court rules provides that;

***“Every application in chambers shall be made by summons”.***

Rule 8 of that Order states as follows;

***“In every cause or matter where any party thereto makes any application at chambers, either by way of summons or otherwise, he shall be at liberty to include in one and the same application all matters upon which he then desires the order or directions of the Court or Judge; and upon the hearing of such application it shall be lawful for the Court or Judge to make any order and give any directions relative to or consequential on the matter of such application as may be just; and such application may, if the Judge thinks fit, be adjourned from chambers into Court, or from Court into chambers”.***

In terms of what applications can be made in chambers Order XXX Rule 11 of the High Court Rules provides and I quote;

***“11. The business to be disposed of in chambers shall consist of the following matters, in addition to the matters which under any***

*other rule or by statute or by the law and practice for the time being observed in England and applicable to Zambia may be disposed of in chambers:*

- (a) Applications for time to plead, for leave to amend pleadings, for discovery and production of documents, and generally all applications relating to the conduct of any cause or matter;*
- (b) An application by any person claiming to be interested under a deed, will or other written instrument for the determination of any question of construction arising under the instrument and for a declaration of the rights of the person interested;*
- (c) An application by any person claiming any legal or equitable right, in a case where the determination of the question whether he is entitled to the right depends upon a question of construction of a statute, for the determination of such question of construction and for a declaration as to the right claimed;*
- (d) All proceedings in the Court under the Trustee Act, 1893, or under the Land Transfer Act, 1897, of the United Kingdom;*
- (e) Applications as to the guardianship and maintenance or advancement of infants;*
- (f) Applications connected with the management of property;*
- (g) Applications for or relating to the sale by auction or private contract of property, and as to the manner in which the sale is to be conducted, and for payment into Court and investment of the purchase money;*

***(h) All applications for the taxation and delivery of bills of cost and for the delivery by any Advocate of deeds, documents and papers;***

***(i) All matters which under any other rule or statute were formerly allowed to be commenced by originating summons;***

***(j) Such other matters as a Judge may think fit to dispose of in chambers.***

While the above Rules do not expressly provide for the raising of preliminary issues, in my view they are wide enough to cover interlocutory applications relating to preliminary issues. If one wishes to go further however, they can rely on the law for the time being in force in England which applies to Zambia as seen from Order XXX Rule 11 of the High Court Rules cited above. Thus, on an application to raise preliminary issues that on determination will not dispose of a matter finally, one can rely on Order 33 Rule 3 of the Rules of the Supreme Court of England, 1999 edition. It states that;

***“The Court may order any question or issue arising in a cause or matter, whether of fact or law or partly of fact and partly of law, and whether raised by the pleadings or otherwise, to be tried before, at or after the trial of the cause or matter, and may give directions as to the manner in which the question or issue shall be stated”.***

Going by what has been seen above in terms of the law, in this matter, therefore, as the preliminary issue raised will not dispose of the matter finally as it may just result in expunging the paragraphs in the affidavit verifying the petition that offend Order 5 of the High Court Rules, reliance on Order 14A of the Rules of the Supreme Court of England,



1999 edition in making the application was irregular. However, despite the irregularity, I have looked at the merits of the application, and I have found that it lacks, and I accordingly dismiss the application for the reasons earlier given.

As regards the application for misjoinder by the 1<sup>st</sup> Respondent, the basis of making the application is that the claims or reliefs sought by the Petitioner are as against the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents as they relate to regulatory expropriation, alleged to be in contravention of Article 16 of the Bill of Rights, and no cause of action has been revealed against it.

In opposing the application, the Petitioner stated that among the reliefs that it seeks are declarations relating to the provisions of the Competition and Consumer Protection Act No 24 of 2010 and restitution of the monies collected by the 2<sup>nd</sup> Respondent from the 1<sup>st</sup> Respondent as well as compensation for loss suffered. That the compensation claimed will affect the 1<sup>st</sup> Respondent if the Petitioner will succeed on the claim at trial. The 1<sup>st</sup> Respondent on the other hand submitted that the compensation claimed is not directed at it, and therefore no cause of action is revealed against it.

A perusal of the compensation claimed in the petition shows that it is not directed at any of the three parties herein but is stated generally. It is trite as argued by the 1<sup>st</sup> Respondent, that parties are bound by their pleadings. It is also trite that the pleadings must reveal a cause of action against a party so that the party knows what it shall meet at trial. It will however be noted that Order 9/2/2 of the Rules of the Supreme Court of England, 1999 edition states that;

***“A petition is not treated as a pleading by these rules, being excluded by definition in O.1, r.4..... It must set out clearly the terms of the order sought...”***

Therefore, while a petition is not a pleading, there is need for the claim regarding compensation to state against whom it is sought so that it is clear. In the interests of justice, and in order to ensure the elimination of all statements which may tend to prejudice, embarrass or delay the fair trial of the suit, and for the purpose of determining, in the existing suit, the real question or questions in controversy between the parties in line with Order 18 Rule 1 of the High Court Rules, Chapter 27 of the Laws of Zambia, I order that the Petitioner shall amend the petition with regard to the compensation claimed. The application for misjoinder by the 1<sup>st</sup> Respondent fails on that basis.

I accordingly issue orders for directions in this matter as follows;

1. That the Petitioner shall file the amended petition by 30<sup>th</sup> January, 2019.
2. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents shall file their answers and the 3<sup>rd</sup> Respondent shall file the amended answer if any by 17<sup>th</sup> February, 2019.
3. The Petitioner shall file a reply to the answers if any by 26<sup>th</sup> February, 2019.
4. There shall be discovery and inspection of documents by 14<sup>th</sup> March, 2019.
5. The parties shall file their bundle of pleadings and documents by 31<sup>st</sup> March, 2019.

6. There shall be liberty to apply by either party.

7. The matter shall come up for trial on 29<sup>th</sup> and 30<sup>th</sup> May, 2019 at 09:00 hours on both dates.

Costs shall be in the cause and leave to appeal is granted.

**DATED THE 16<sup>th</sup> DAY OF JANUARY, 2019**

*Kaunda*

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**S. KAUNDA NEWA  
HIGH COURT JUDGE**