

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



**2015/HP/1652**

**B E T W E E N:**

BATES NAMUYAMBA

**PLAINTIFF**

**AND**

KUNDA CHIMAMBO

**DEFENDANT**

**Before Honourable Mrs. Justice M. Mapani-Kawimbe on the 8<sup>th</sup> day of  
November, 2017**

*For the Plaintiff* : *Mr. B. Mosha, Messrs Mosha & Company*  
*For the Defendant* : *Mr. H.H. Ndhlovu S.C, Messrs H.H. Ndhlovu &  
Company*

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## **J U D G M E N T**

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**Legislation Referred To:**

1. *Land Survey Act, Chapter 188*

By way of Writ of Summons and Statement of Claim, the Plaintiff seeks the following reliefs:

- i. *An order of injunction restraining the Defendant from closing the access road.*
- ii. *A declaration that the Plaintiff and other road users have the right to use the access way as a public road.*
- iii. *Any other relief the Court may deem fit.*
- iv. *Costs*

The Statement of Claim discloses that the Plaintiff is the proprietor of Subdivision 2 of Subdivision B of Farm 298a, Lusaka. The Defendant owns a property adjacent to his. The Plaintiff avers that access to the properties is through Musuku road that has been in existence since 1959. The Defendant is first positioned in proximity, while the Plaintiff's property and the others are located thereafter and they access the properties driving past the Defendant's. The Plaintiff states that he acquired his property in 2000 and found the access road.

The Plaintiff avers that all properties located in the area adjacent to the access road are subject to a lease which was executed by the British South African Company and Dirk Cernelius Uys, which provides for the preservation and uninterrupted existence of all existing roads including Musuku Road. The Plaintiff further avers that on 10<sup>th</sup> August, 2015, the Defendant unilaterally and without regard to the other road users and the public at large issued a notice of closure of the access road, which acts are unlawful and unjustified.

