

IN THE CONSTITUTIONAL COURT OF ZAMBIA
 HOLDEN AT LUSAKA
 (Constitutional Jurisdiction)

2016/CC/0010 2016/CC/0011

BETWEEN:

STEVEN KATUKA (Suing as Secretary
 General of the United Party for National Development) 2nd PETITIONER

LAW ASSOCIATION OF ZAMBIA AND 3rd PETITIONER

ATTORNEY GENERAL
 NGOSA SIMBYAKULA & 62 OTHERS 1ST RESPONDENT
 2ND – 64TH RESPONDENTS



Coram: Chibomba, PC, Sitali, Mulenga, Mulembe and Munalula JJC on 22nd November 2016 and 17th November, 2017

For the 2nd Petitioner: Mr K Mweemba of Messrs Keith Mweemba Advocates and Mr G Phiri of Messrs PNP Advocates
 For the 3rd Petitioner: Mr J Sangwa S.C., of Simeza Sangwa and Associates
 For the Respondents: Mr L Kalaluka, S.C., Attorney General and Mr F.K. Mwale, Senior State Advocate, Attorney General's Chambers with Major C Hara, Ag Chief State Advocate and Ms L Kasonde State Advocate

JUDGMENT

Munalula, JC, delivered the judgment of the Court

Cases referred to:

1. Adams v Adams [1970] 3 All E.R. 572
2. Taylor and Another v Lawrence and Another [2002] 2 All E.R. 353
3. Kapoko v The people 2016/CC/23
4. Nkumbula and Kapwepwe v UNIP (1978) Z.R. 378
5. Attorney General and Spalding Rural District Council v Garner and Another [1907] K.B. 480
6. Wyld v Silver [1962] 3 All E. R. 309

Legislation referred to:

Constitution of Zambia, Chapter 1 of the Laws of Zambia, Articles 14(1) and (2), 28
 Constitution of Zambia (Amendment) Act No.2 of 2016, Articles 1(1) and (3), 7, 118, 127, 128, 134, 177 and 267(4)
 State Proceedings Act, Chapter 71 of the Laws of Zambia, s. 12
 Constitutional Court Rules, S.I. 37 of 2016

Works referred to:

Rules of the Supreme Court, 1999 Edition (White Book) Order 2/2, 14A/1/2 and 33/3
Black's Law Dictionary 9th Edition
Osborn's Concise Law Dictionary 6th Edition

At the hearing of a notice of motion filed by the 1st Respondent (henceforth referred to as the Attorney General), seeking to re-open **Stephen Katuka v Attorney General Petition No. 2016/CC/0010** and **Law Association of Zambia v Ngosa Simbyakula and 62 Others Petition No. 2016/CC/0011**(consolidated) decided on 8th August 2016 (henceforth referred to as "the ministers' case"), the learned counsel for the 2nd and 3rd Petitioners informed the Court that they had, respectively, filed notices to raise preliminary issues which they requested the Court to first hear and determine before the notice of motion filed by the Attorney General was heard.

This judgment therefore relates to the two notices to raise preliminary issues filed by the Petitioners to dismiss with costs the motion filed by the Attorney General. The learned counsel for the respective parties relied on the skeleton arguments filed, which they augmented with spirited viva voce submissions. We will not repeat the oral submissions except to the extent necessary to appreciate the reasoning of the Court in coming to this judgment.

