

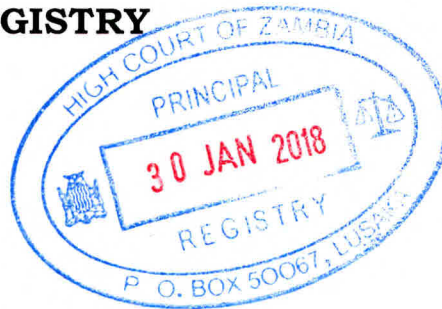
+IN THE HIGH COURT FOR ZAMBIA

2017/HP/ 2256

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



BETWEEN:

**MOYA MULIKITA (Suing as
Administrator of the Estate
of the late Joseph Mando Mulikita)**

APPLICANT

AND

HORIZON PROPERTIES LIMITED

RESPONDENT

**BEFORE THE HONOURABLE MADAM JUSTICE P. K. YANGAILO
IN CHAMBERS AT LUSAKA, THE 30TH DAY OF JANUARY 2018.**

For the Applicant: Mr. M. Banda - Nanzila Advocates

For the Respondent: Ms. C. M. Mwansa - Messrs. EBM Chambers

RULING

CASES REFERRED TO:

1. *Commonwealth Development Corporation vs. Central African Power Corporation (1968) ZR 90;*
2. *Laurent vs. Williams (1963 - 1964) ZR 5; and*
3. *Bank of Zambia vs. Vortex Refrigeration Company and Dockland Construction Limited - SCZ/8/361/2012.*

LEGISLATION AND OTHER WORKS REFERRED TO:

1. *The Supreme Court Practice 1999 Edition (The White Book).*

On 27th December, 2017, the Applicant commenced an action by way of Originating Summons accompanied with Affidavit in Support. I scheduled the matter for hearing on 29th January, 2018. On 22nd January, 2018, the Applicant filed herein a Further Affidavit in Support of Originating Summons. The Respondent entered Appearance and filed herein an Affidavit in Opposition on 23rd January, 2018.

Subsequently, on 25th January, 2018, the Respondent filed herein an application to strike out the Applicant's Further Affidavit in Support of Originating Summons filed on 22nd January, 2018, which was accompanied by Affidavit in Support deposed by Chisunke Mary Mwansa, an Advocate practicing under the name and style of EBM Chambers. It is averred by Ms. Mwansa, *inter alia*, as follows: -

1. *That the Applicant commenced an action against the Respondent by way of Originating Summons and Affidavit in Support of Originating Summons on the 27th December, 2017 and served the same on the Respondent on the 9th January, 2018;*
2. *That on the 22nd January, 2018, the Applicant filed a Further Affidavit in Support of Originating Summons;*
3. *That she verily believes that the Applicant filed the said Further Affidavit without leave of this Honourable Court to do so;*
4. *That she verily believes that it is procedural practice for a party to apply for leave of the Court before filing a Further Affidavit; and*

