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**IN THE HIGH COURT FOR ZAMBIA  
AT THE PRINCIPAL REGISTRY  
HOLDEN AT LUSAKA**

*(Civil Jurisdiction)*



**2011/HP/1342**

IN THE MATTER OF:

RELATING TO STAND NO. 30085

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

**ANDREW THOLE**

**APPLICANT**

**AND**

**MULENGA (MALE)**

**1<sup>ST</sup> RESPONDENT**

**CONSTANCE CHIPINDI (FEMALE)**

**2<sup>ND</sup> RESPONDENT**

**Before Honorable Mrs. Justice M. Mapani-Kawimbe in Chambers on 14<sup>th</sup> October, 2016**

*For the Applicant* : *Mr. A.D.M. Mumba of AD Mwansa Mumba and Associates*

*For the 1 & 2 Respondents* : *Mr. C. Chibwe of Ysakar Legal Practitioners*

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**RULING**

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I have given serious consideration to the arguments raised by learned Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents and the concession

by learned Counsel for the Applicant that the law is as stated by the Respondents. Further that the Applicant does not object the Respondent's application to stay execution of the Consent Order and the subsequent application to set it aside. Indeed a Consent Order ought not to be easily set aside for the reason that it is usually a product of a self-motivated position and the agreement of the parties. However in this case, I find merit in Learned Counsel's arguments that this Court should set aside the Consent Order for the reason that does not reflect the instructions of the parties. Under **Order 3 rule 2 High Court Act**, I empowered to make such orders that are necessary for doing justice. In so doing, I find that it will be just to the parties to set aside the Consent Order and its execution thereof. I accordingly so order. Since the circumstances are neither the fault of the Applicant nor the Respondents, I will not make any orders as to costs.

**Dated this 14<sup>th</sup> day of October, 2016.**

.....*M. Mapani*.....

Hon. Mrs. Justice M. Mapani-Kawimbe

**HIGH COURT JUDGE**