

IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT LUSAKA
(Civil Jurisdiction)

APPEAL No. 187/2014
SCZ/8/233/2014

B E T W E E N :

ZAMBIA TEXTILES LIMITED (In Liquidation)

APPELLANT

AND

PROGRESS KALEMBA AND 29 OTHERS

RESPONDENTS

Coram: Hamaundu, Malila and Mutuna, JJS
on 11th July, 2017 and 10th August, 2017

For the Appellant: Mrs. Melody Nyendwa-Mayaka, Messrs Mulenga
Mundashi Kasonde, Legal Practitioners

For the Respondent: Mr. M. Cheelo, Messrs Mak Partners

J U D G M E N T

MALILA, JS, delivered the Judgment of the Court.

Cases referred to:

1. *Bank of Zambia v. Jonas Tembo and Others* [SCZ Judgment No. 24 of 2004]
2. *BP. Zambia Plc v. Interland Motors Limited* [SCZ Judgment No. 5 of 2001]
3. *Mpongwe Farms Limited v. Dar Farms and Transport Limited* [Selected judgment No. 38 of 2016]
4. *Croppers v. Smith* (1884) 26 Ch. D 700
5. *Zambia Seed Company Limited v. West Co-op Haulage Limited and Western Province Cooperative Union* (Appeal No. 112 of 2013)

Legislation referred to:

1. *Rules of the Supreme Court (White Book 1999 edition)*
2. *High Court Rules, chapter 27 of the Laws of Zambia*
3. *High Court Act, chapter 27 of the Laws of Zambia*
4. *Palmer's Company Law, Vol.2, 2009, Sweet & Maxwell*
5. *Halsbury's Laws of England Vol.7 para 516*
6. *Blacks Law Dictionary (8th ed.)*

This appeal challenges a ruling of the High Court given on 16th December, 2013. In terms of that ruling, the learned trial judge dismissed two applications by the appellant lodged before him, namely, one to stay execution of a judgment, and the other to set-aside the said judgment for irregularity.

As discernable from the record of appeal, the litigation background of this matter is anything but clear. The underlying facts leading to the present contest were these. The respondents, who were plaintiffs in the lower court, were former employees of the appellant. They obtained leave from the High Court to commence proceedings against the appellant which was at that time already in liquidation. That leave was obtained under cause number 2009/HL/98 and was signed on 15th March, 2011. We shall hereafter refer to that cause as the 'first action'. It is uncertain as to what the chief grievance in the first action was. It is also unclear from the record what the fate of that action was

