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**IN THE COURT APPEAL FOR ZAMBIA
HOLDEN AT LUSAKA**
(Civil Jurisdiction)

APPEAL NO. 024/2017

IN THE MATTER OF:

**PLOT NO. 601/08 CHAWAMA
IMPROVEMENT AREA
SITUATE IN THE LUSAKA PROVINCE
OF THE REPUBLIC OF ZAMBIA**

IN THE MATTER OF:

**AN APPLICATION UNDER ORDER 113
THE RULES OF THE SUPREME COURT
1999 EDITION**

BETWEEN:

BLACKWELL SIMBEYE

APPELLANT

AND

**ALLAN NJOBVU
UNKNOWN OCCUPIERS**

**1ST RESPONDENT
2ND RESPONDENTS**

CORAM: Chisanga JP, Chishimba and Sichinga, JCA

On 4th May, 2017.

For the Appellant: Mr. S. Mweemba, Messrs Mumba Malila & Partners

For the Respondent: N/A

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JUDGMENT

CHISANGA, JP delivered the Judgment of the Court

Cases referred to:

- 1. Zambia Revenue Authority vs Jayesh Shah (2001) Z.R. 60**
- 2. Gaedonic Automotive Limited & Patrick Chisenga Mundundu vs Citizens Empowerment Commission² (SCZ No. 39 of 2014)**
- 3. Greehalgh vs Mallard (1947) 2 All EL P 255**
- 4. Societe National Des Chemis De Pur Du Congo (SNCC) vs. Kakonde (SCZ Judgment No. 19 of 2013) P 51**
- 5. Zambia National Holdings Limited and United National Independence Party vs The Attorney General (1993/94) Z.R. 115**

Works Referred to:

1. *Halsbury's Laws of England, Fourth Edition, paragraph 1528*
2. *Halsbury's Laws of England Third Edition Volume 16 para 103.*

Legislation referred to:

1. *Housing (Statutory and Improvement Area) Act Cap 194 of the Laws of Zambia*
2. *Subordinate Act CAP 28*
3. *Constitution*

This appeal is against the Order made by the learned judge in the court below on the 20th December 2016, wherein she stated as follows:

Upon perusal of the occupancy licence relating to the title of the property in issue, the Applicant is notified that by virtue of section 2 of the **Housing (Statutory and Improvement Area) Act Cap 194 of the Laws of Zambia** the jurisdiction to hear and determine disputes relating to the property herein does not lie to the High Court. In this regard the Applicant is directed to commence a fresh action before the correct court, namely the subordinate court.

This order was made in the absence of the parties. Although the proceedings do not so show, the learned High Court Judge granted the applicant leave to appeal against the said Order dated 23rd January 2017. An order to that effect is on record.

