

**IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)**

2016/HPC/0186



BETWEEN:

ACCESS BANK ZAMBIA LIMITED

PLAINTIFF

AND

JAMES CHOLA CHONYA

DEFENDANT

**CORAM: Hon. Madam Justice Dr. W.S. Mwenda in Chambers at
Lusaka on the 17th day of November, 2017**

For the Plaintiff: Ms. C. Mulomba of Messrs. Theotis
Mataka & Sampa Legal Practitioners

For the Defendant: Mr. M. Mulele of Messrs. G. M. Legal
Practitioners

RULING

Cases referred to:

- 1. Zambia Export and Import Bank Limited v. Mkuyu Farms Limited and Others (1993-1994) ZR 36 (S.C.).*
- 2. Kawaya v. First Alliance Bank Zambia Limited, SCZ/8/208 of 1997 (Unreported).*

3. *African Banking Corporation Zambia Limited (T/A BancABC) v. Chat Milling Company Limited and 5 Others, 2014/HPC/0357*
4. *Access Bank Zambia Limited v. Mayase Mibenge, 2012/HPC/0556*

Legislation referred to:

1. *Order 36 Rule 9, of the High Court Rules, Chapter 27 of the Laws of Zambia.*
2. *Orders 47 Rule 1 (3) of the Rules of the Supreme Court, 1999 Edition (the "White Book").*

This is an application by the Defendant for an order to pay the judgment sum in instalments (hereinafter called the "Application"). The Application is made pursuant to Order 36 Rule 9 of the High Court Rules, Chapter 27 of the Laws of Zambia, which provides as follows:

"Where any judgment or order directs the payment of money, the Court or a Judge may, for any sufficient reason, order that the amount shall be paid by installments, with or without interest. The order may be made at the time of giving judgment, or at any time afterwards, and may be rescinded or varied upon sufficient cause, at any time. The order shall state that, upon the failure of any installment, the whole amount remaining unpaid shall forthwith become due:

Provided that where there is a default in paying any one installment, there shall be no order for stay of execution on the balance."

