

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

APPEAL NO. 192/2013

BETWEEN:

PIUS NGOI

AND

NELSON GEORGE DAKA (Police Reservist)

THE ATTORNEY GENERAL



APPELLANT

1ST RESPONDENT

2ND RESPONDENT

Coram: Mwanamwambwa, DCJ, Musonda and Chinyama, JJS
on 5th April, 2016 and 3rd November, 2017

For the Appellant : Filed Notice of Non-Appearance

For the 1st and 2nd Respondents : Mr. Fredrick Imasiku, Senior State Advocate

J U D G M E N T

MUSONDA, JS, delivered the Judgment of the Court

Legislation referred to:

1. Order 39(2) of the High Court Rules, CAP. 27.

This appeal is arising from a Ruling of a High Court Judge sitting at Lusaka and dated 22nd July, 2013 in terms of which the learned High Court Judge declined to entertain an application which had been launched by the plaintiff, now appellant, whereby

the appellant sought to have the court review an 'unless order' which it had pronounced on 12th July, 2011 and in terms of which the court below ordered that the matter in question be struck off the active Cause List for non-attendance by the parties. In the same order the court granted the applicant concerned liberty to restore the matter to the active list, within 14 days from the date of the making of the order failing which the matter in question was to stand dismissed for want of prosecution.

The relevant history and background circumstances which culminated in having the court below pronounce the order which generated the disaffection which is now being expressed through the appeal now before us are of the plainest.

On 1st August, 2007 the appellant, then plaintiff, instituted a court action in the High Court of Zambia at the Principal Registry at Lusaka seeking a variety of reliefs against the respondents, then defendants.

Following the expiry of the 14-day period within which the respondents were directed to enter appearance and the said appearance not having been entered, the appellant proceeded to

