

IN THE CONSTITUTIONAL COURT OF ZAMBIA
 AT THE CONSTITUTIONAL REGISTRY
 HOLDEN AT LUSAKA
 (Constitutional Jurisdiction)

APPEAL NO. 4 of 2017
 2016/CC/A040

IN THE MATTER OF: THE PARLIAMENTARY ELECTION PETITION RELATING TO
 PARLIAMENTARY ELECTIONS FOR MWANSABOMBWE
 CONSTITUENCY HELD ON THE 11TH OF AUGUST 2016.

AND

IN THE MATTER OF: ARTICLE 118 OF THE CONSTITUTION OF ZAMBIA, CHAPTER
 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF
 2016.

IN THE MATTER OF: SECTION 28, 81, 97 AND 106 OF THE ELECTORAL PROCESS
 ACT NO. 35 OF 2016.

IN THE MATTER OF: SECTION 93 OF THE ELECTORAL ACT NO. 12 OF 2016
 (REPEALED).

AND

IN THE MATTER OF: THE ELECTORAL CODE OF CONDUCT 2016

BETWEEN:

SUNDAY CHITUNGU MALUBA
 AND
 RODGERS MWEWA
 ATTORNEY GENERAL



APPELLANT

1ST RESPONDENT
 2ND RESPONDENT

CORAM: Chibomba PC, Sitali, Mulembe, Mulonda and Munalula JJC on 19th June 2017 and
 17th November, 2017

For the Appellant: Mr. Mataliro of Mumba Malila and Partners
 For the Respondent: Mr. Mulenga of Iven Mulenga and Company

JUDGMENT

Munalula JC, delivered the Judgment of the Court.

Cases referred to:

1. Stanley Mwambazi v Morester Farms Limited (1977) Z.R. 108 (S.C.)
2. Zambia Revenue Authority v Jayesh Shah S.C.Z. Judgment No. 10 of 2001
3. Augustine Kapembwa v Danny Maimbolwa and Attorney General (1981) Z.R. 127
4. Hakainde Hichilema and another v Lungu and another (2016/CC/0031) [2016] ZMCC 4
5. Josephat Mlewa v Eric Wightman (1995-1997) Z.R.171
6. Brelsford James Gondwe v Catherine Namugala Appeal No. 175 of 2012
7. Leonard Banda v Dora Siliya S.C.Z. Judgment No. 127 of 2012
8. Henry Kapoko v The People 2016/CC/0023
9. Raila Odinga and others v Independent Electoral and Boundaries Commission and others (2013) E- KLR (Kenya)
10. Century Enterprises Limited v Greenland Bank (In Liquidation) (HCT-00-MA-0916 of 2004) (Uganda)
11. Twampane Mining Co-operative Society Limited v E and M Storti Mining Limited S.C.Z. Judgment No.20 of 2011
12. Nkuwa v Lusaka Tyre Services Limited (1977) Z.R. 43
13. Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Others (2005) Z.R. 138
14. Attorney General v Marcus Achiume (1983) Z.R.1 (S.C.)
15. Wilson Masauso Zulu v Avondale Housing Project (1982) Z.R. 172 (S.C.)
16. Ilunga Kabala and John Masefu v The People (1981) Z.R. 102 (S.C.)
17. Carver Joel Jere v Shamayuma and Attorney General (1978) Z.R. 204 (S.C.)
18. Mwalimu Simfukwe v Evaristo David Kasunga Appeal No.50 of 2015

Legislation referred to:

The Constitution of Zambia (Amendment) Act No. 2 of 2016
Electoral Act No. 12 of 2006
Electoral Process Act No. 35 of 2016

Work referred to:

WH Smith Concise Oxford Dictionary, Eighth Edition
Halsbury's Laws of England, Vol. 15: Elections

