

**IN THE HIGH COURT FOR ZAMBIA**

**2017/HP/1461**

**AT THE PRINCIPAL REGISTRY**

**AT LUSAKA**

*(Civil Jurisdiction)*

**BETWEEN:**



**SAMSINGILA KONDOWE APPLICANT**

**AND**

**PRO FAB (ZAMBIA) LIMITED RESPONDENT**

**BEFORE THE HONOURABLE MADAM JUSTICE P. K. YANGAILO**

**IN CHAMBERS ON THE 4<sup>TH</sup> DAY OF DECEMBER, 2017**

*For the Applicant: Mr. Samsingila Kondowe, In Person*

*For the Respondent: N/A*

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## **JUDGMENT**

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### **CASES REFERRED TO:**

1. *Salomon v. Salomon and Company Limited (1895-1899) All E. R 33;*
2. *Dennis Wilcox Pty Ltd vs. Federal Commission of Taxation (1988) 79 ALR 269;*
3. *Prest vs. Petrodel Resources Limited (2013) UK SC 34;*
4. *Ethiopian Airlines Limited v. Sunbird Safaris Limited, Sharma's Investment Holding Limited and Vijay Babulal Sharma (2007) Z.R. 235; and*
5. *R. William C – Leitch Brothers Limited (1932) 2 Cl. 71.*

### **LEGISLATION REFERRED TO:**

1. *Companies Act, Chapter 388 of the Laws of Zambia; and*
2. *High Court Rules, Chapter 27 of the Laws of Zambia.*

On 20<sup>th</sup> July, 2016, the Court below entered Judgment in favour of the Applicant against the Respondent in the sum of K25,200.00 with interest at 6% from date of Writ until full payment plus costs. Following the said judgment and upon attempting to execute the same by way of Writ of *Fieri Facias* issued on 5<sup>th</sup> August, 2016, said execution failed. A Ruling of the Court below dated 4<sup>th</sup> November, 2016, which is on record, shows that execution had failed as the Court below upheld a Claimant's claim to the goods seized.

The Applicant then made an application to this Court by way of Originating Summons to lift the Respondent's corporate veil in terms of **Section 383** of **The Companies Act Chapter 388** of **The Laws of Zambia**<sup>1</sup>, so that ALEX ZIMBA and CHIBEZA ZIMBA Directors in Pro Fab (Zambia) Limited, may be made personally liable for the Respondent Company's debt. The application is supported by Affidavit deposed by one SAMSINGILA KONDOWE, in which, *inter alia*, he avers as follows: -

1. *That the Respondent does not keep the assets of the company at its registered premises of Plot Number 129/10b Lungwebungu Road, Lusaka and it has been difficult for the Applicant to recover the judgment debt plus interest and costs;*
2. *That the Respondent company has ceased to operate from the registered address and have to date not lodged any Notice with PACRA to notify the public of its current registered office;*
3. *That there is no good reason for the Respondent company through its Directors to fail to pay the debt and abide by the Order of the Honourable Court;*
4. *That the Respondent company has ceased to operate from their registered address making it difficult to enforce the Judgment;*

