

IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA

2017/HPC/0010

(Commercial Registry)

B E T W E E N:

**YAHYA ABDI HUSSEIN
AFDUB ABDINUR SAID FARAH**



**1st PLAINTIFF
2nd PLAINTIFF**

AND

BNM FREIGHT FORWARDERS COMPANY LIMITED

DEFENDANT

RULING

Cases referred to:

1. *BP Zambia Plc v Interland Motors (2001) Z.R. 37;*
2. *Kelvin Hang'andu & company (a Firm) v. Webby Mulubisha (2008) 2 Z.R. 82;*
3. *Development Bank of Zambia and Another v. Sunvest Limited and Another (1995-1997) Z.R. 187;*
4. *Bakewell Bakeries Limited vs. Steyn Jempa, Cause No. 2012/HPA/002*

Legislation and Other Materials referred to:

1. *Order III, rule 2, High Court Rules, Chapter 27 of the Laws of Zambia;*
2. *Order 33, Rule 3 and Order 29/1A/33 of the Rules of the Supreme Court of England, 1965, Supreme Court Practice (White Book, 1999 edition).*

This is an application on the part of the Defendant to set aside the Originating Process filed on 10th January, 2017 for irregularity. Additionally, the Defendant seeks to have the injunction granted by Order of Court on 12th January, 2017 discharged.

The application was made by way of Summons dated 23rd May, 2017, issued pursuant to **Order III, Rule 2 of the High Court Rules, Chapter 27 of the Laws of Zambia**, as read with **Order 33, Rule 3 and Order 29/1A/33 of the Rules of the Supreme Court of England, 1965, Supreme Court Practice (White Book, 1999 edition)**.

The Summons was filed together with an Affidavit in Support deposed to by Ali Kreik, the Assistant Managing Director for Business Development in the Defendant Company and Skeleton Arguments and List of Authorities.

According to the Affidavit in Support, the Plaintiffs commenced an action against the Defendant on 6th January, 2017 in Tanzania, under cause No. 2 of 2017 before taking out the process that is subject to this application. The deponent attested that the two actions sought the same redress, including an injunction, which was granted in Tanzania by order of 6th January, 2017.

