

**IN THE HIGH COURT OF ZAMBIA  
AT THE PRINCIPAL REGISTRY  
HOLDEN AT LUSAKA**  
*(Civil Jurisdiction)*

**2013/HP/1790**

BETWEEN:

**MARGARET KAYANIKA**

AND

**MORGAN KAYANIKA**



**APPLICANT**

**RESPONDENT**

**BEFORE HON MRS JUSTICE S. KAUNDA NEWA THIS 29<sup>th</sup> DAY OF  
JANUARY, 2018**

*For the Applicant : Mrs B. Musukwa Mulenga, National Legal Aid Clinic for Women*

*For the Respondent : No appearance*

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## **R U L I N G**

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LEGISLATION REFERRED TO:

**1. The Maintenance Orders Act, Chapter 55 of the Laws of Zambia**

This is a ruling on an application made by the Applicant for attachment of earnings, pursuant to Section 8 of the Maintenance Act, Chapter 55 of the Laws of Zambia. Counsel stated that they relied on the affidavit filed in support of the application on 17<sup>th</sup> October, 2017, as well as the amended summons filed on 1<sup>st</sup> November, 2017.

It was Counsel's submission that it was clear from the affidavit that the Respondent had neglected to maintain the Applicant and the children of the family as provided in the consent order dated 27<sup>th</sup> March, 2014. On

the affidavit in opposition to the application that was filed by the Respondent, Counsel stated that it did not meet the requirements set out in Section 8 (2) of the Maintenance Orders Act, Chapter 55 of the Laws of Zambia, and prayed that the application be granted.

I have considered the application. The affidavit in support of the application shows that the parties executed a consent order before Mrs Justice Chisanga on 27<sup>th</sup> March, 2014, wherein it was agreed that the Respondent would meet the basic needs of the Applicant and the children of the family in relation to the minimum basic food basket for an average family, by paying a sum of K1, 000.00 per month and school fees for the children of the family, Kaula Kayanika and Kapanga Kayanika.

However the Respondent had not been consistent with the payment of the maintenance, and in 2014 he paid the said maintenance from February to December, and in 2015 he only paid maintenance from January to May, and had since failed to pay the said maintenance., despite being in gainful employment as a Local Court Magistrate at the Matero Local Court.

The Respondent in the affidavit in opposition filed on 11<sup>th</sup> January, 2018 stated that his failure to meet the maintenance agreed in the consent order had been due to the Applicant deliberately creating barriers when it came to communicating the children's actual requirements, and refusing to discuss the same. Further that the Applicant had been insulting him as well as ridiculing him, and had created emotional pain to him by not talking to him, and had been harassing him and denying him use of his personal things such as his laptop.

