

**IN THE CONSTITUTIONAL COURT OF ZAMBIA  
AT THE CONSTITUTIONAL COURT REGISTRY  
HOLDEN AT LUSAKA  
(CONSTITUTIONAL JURISDICTION)**

**APPEAL NO. 15/2016  
2016/CC/A022**

**IN THE MATTER OF: ARTICLE 73(1) OF THE CONSTITUTION OF  
THE REPUBLIC OF ZAMBIA**

**AND**

**IN THE MATTER OF: SECTION 97 OF THE ELECTORAL PROCESS  
ACT NO. 35 OF 2016**

**AND**

**IN THE MATTER OF: THE ELECTORAL CODE OF CONDUCT, 2016**

**AND**

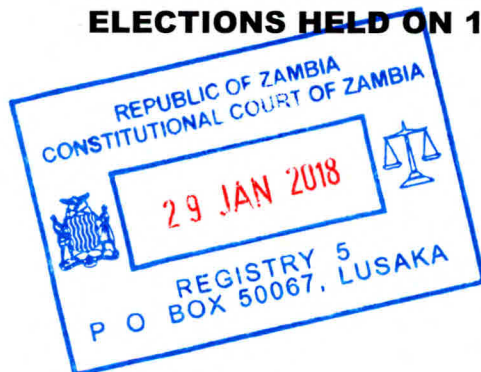
**IN THE MATTER OF: SIKONGO PARLIAMENTARY CONSTITUENCY  
ELECTIONS HELD ON 11<sup>TH</sup> AUGUST, 2016**

**BETWEEN:**

**KUFUKA KUFUKA**

**AND**

**MUNDIA NDALAMEI**



**APPELLANT**

**RESPONDENT**

**CORAM: Chibomba, PC, Sitali, Mulenga, Mulonda and Munalula, JJC on  
21<sup>st</sup> June, 2017 and 29<sup>th</sup> January, 2018**

**For the Appellant: Ms. N. Yalenga and Mr Khosa, Messrs Nganga  
Yalenga and Associates.**

**For the Respondent: Ms. M. Mushipe, Mesdames Mushipe and  
Associates, Mr. N. Inambao, Messrs ICN Legal  
Practitioners**

---

## **J U D G M E N T**

---

**Mulenga, JC, delivered the Judgment of the court.**

**Cases cited:**

1. **Nabukeerra Hussein Hanifa v Kibule Ronald and another (2011) UGHC 72**
2. **Akashambatwa Mbikusita Lewanika and others v Fredrick Jacob Titus Chiluba (1998) Z.R. 49**
3. **Michael Mabenga v Sikota Wina, Mafo Wallace Mafuyo and George Samulele (2003) Z.R. 110 (SC).**
4. **Reuben Mtolo v Lameck Mangani SCZ Judgment No. 2 of 2013**
5. **Josephat Mlewa v Eric Wightman (1995 – 1997) Z.R. 171 (SC)**
6. **Attorney General v Kakoma (1975) Z.R. 212 (SC)**
7. **Mubika Mubika v Poniso Njeulu SCZ Appeal No. 114/2007**
8. **Mazoka and Others v Mwanawasa and Others (2005) Z.R. 138 (SC)**
9. **Nkhata and Others v The Attorney General (1966) Z.R.124**
10. **Masauso Wilson Zulu v Avondale Housing Project Ltd (1982) Z.R. 172**
11. **Makumbi v Greytown Breweries Limited and Others SCZ Appeal number 32 of 2012**
12. **Brelsford James Gondwe v Catherine Namugala, SCZ Appeal number 129 of 2012**

**Legislation cited:**

1. **The Electoral Process Act Number 35 of 2016**

**Other Materials Cited:**

1. **Halsbury's Laws of England, 4<sup>th</sup> Edition, Volume 15**

This is an appeal by the Appellant against the High Court decision dismissing his election petition challenging the declaration of the Respondent as the duly elected member of Parliament for Sikongo constituency during the 11<sup>th</sup> August, 2016 general elections.

The Appellant was sponsored by the Patriotic Front (PF) and polled 5,167 votes while the Respondent was sponsored by the United Party for National Development (UPND) and polled 7,740 votes. The Appellant in his election petition alleged that the Respondent and his agents had engaged in acts of intimidation, violence, vote buying and

