

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

2015/HP/0315

IN THE MATTER OF : STATUTORY INSTRUMENTS NO. 8
OF 26TH JANUARY, 2001

IN THE MATTER OF : COLLECTION OF DEBTS

BETWEEN:



MONICA MUMBA

APPLICANT

AND

INVESTTRUST BANK (ZAMBIA) PLC

RESPONDENT

**BEFORE THE HONOURABLE LADY JUSTICE M. CHANDA THIS 2ND DAY OF
FEBRUARY, 2018**

APPEARANCES

FOR THE APPLICANT : MR H. MBUSHI OF HBM ADVOCATES

FOR THE RESPONDENT : MR B. MSIDI IN HOUSE COUNSEL

J U D G M E N T

LEGISLATION REFERRED TO:

STATUTORY INSTRUMENT NO. 8 OF 2001 OF THE LAWS OF ZAMBIA

CASES REFERRED TO:

1. IN THE MATTER OF THE LEGAL PRACTITIONERS ACT AND IN THE MATTER OF THE LEGAL PRACTITIONERS LEGAL (COSTS) ORDER, 2001 IN THE MATTER OF THE LEGAL PRACTITIONERS COMMITTEE OF THE LAW ASSOCIATION OF ZAMBIA, 2002/HP/0202
2. PERMANENT CHAMBERS (SUING AS A FIRM) V GADI ICHAKI, GOVIN GUPTA, KAGEM MINING LIMITED AND HAGURA MINING LIMITED SCA NO. 97/2011
3. DAVID MWANZA V FINANCE BUILDING SOCIETY (2010) ZR 299

On 2nd March 2015 **Monica Mumba**, the Applicant herein filed Originating Notice of Motion under *Statutory Instrument No. 8 of 2001 of the Laws of Zambia against Investrust Bank (Zambia) Plc*, the respondent.

The summons was supported by an affidavit deposed by the applicant. The relief sought by the applicant was for an order for the respondent to pay the sum of K261,161.70 being debt collection charges in the matter of Monica Mumba of Bank account number 062100143342013 and cost.

The respondent filed an affidavit in opposition sworn by Tiza Kapembwa on 22nd September, 2015.

Hearing of the matter was set for 29th October, 2015. The applicant in her affidavit evidence averred that she held a bank account number 0621001433422013 with the respondent bank. That between 17th October, 2014 and 25th October, 2014 a sum of K261,617.70 was stolen from her bank account by an employee of the respondent. The applicant further averred that by a letter of demand dated 5th November, 2014 the respondent was accordingly informed of the loss of the said K261,617.70 due to their negligence or carelessness and requested for a refund as per exhibit "**MM1**" produced in the affidavit in support of the originating process. The applicant asserted that by 6th January, 2015 the respondent had refunded part of the money but there was still a sum of K37,772.70 and 10% collection charges still outstanding as shown in exhibit "**MM2**" produced in her affidavit.

