

IN THE CONSTITUTIONAL COURT OF ZAMBIA  
AT THE CONSTITUTIONAL COURT REGISTRY  
HOLDEN AT LUSAKA

2016/CC/0034

(CONSTITUTIONAL JURISDICTION)

IN THE MATTER OF: THE CONTRAVENTION OF ARTICLE 1, 101,103 AND  
105 OF THE CONSTITUTION OF ZAMBIA

BETWEEN:

HAKAINDE HICHILEMA

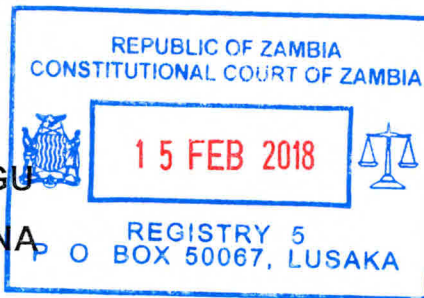
1<sup>ST</sup> APPLICANT

GEOFFREY BWALYA MWAMBA

2<sup>ND</sup> APPLICANT

AND

EDGAR CHAGWA LUNGU



1<sup>ST</sup> RESPONDENT

INONGE MUTUKWA WINA

2<sup>ND</sup> RESPONDENT

ATTORNEY-GENERAL

3<sup>RD</sup> RESPONDENT

Before Chibomba, PC, Mulenga, Mulonda, Munalula and Musaluke JJC. On  
18<sup>th</sup> January, 2018 and on 15<sup>th</sup> February, 2018

For the Applicants:

Mr. J Sangwa, S.C., and Ms. N. Alikipo  
both of Simeza Sangwa and Associates.  
Mrs. L. Mushota of Mushota and  
Associates

For the 1<sup>st</sup> and 2<sup>nd</sup> Respondents:

Mr. L. Linyama of Eric Silwamba, Jalasi  
and Linyama Legal Practitioners.

For the 3<sup>rd</sup> Respondents:

Mr. L. Kalaluka, SC, Attorney-General.  
Mr. F. Mwale, Principal State Advocate,  
Attorney-General's Chambers.

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**RULING**

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Musaluke, JC, delivered the Ruling of the Court

**Cases referred to:**

1. *Metroinvest Ansalt v Commercial Union Assurance Co Ltd* [1985] 1 W.L.R. 513

**Legislation referred to:**

1. *The Constitution of Zambia (Amendment) Act No. 2 of 2016*
2. *The Constitutional Court Rules, 2016*

**Other work referred to:**

1. *Rules of the Supreme Court, (White Book) 1999 Edition*

When this matter came up for hearing of the Applicants' Summons on Appeal against the decision of the single Judge of this Court, the Attorney General who is the 3<sup>rd</sup> Respondent in this matter informed the Court that although he filed an Affidavit in Opposition to the Applicants' Summons on Appeal, what he was supposed to file was in fact a notice to raise a preliminary objection as to whether the Appeal was properly before this Court. He then apologized for the nature of the documents filed as instead of filing a notice of objection, what was filed is a document entitled 'Affidavit in Opposition to the Appeal'. He informed the Court that in the circumstances, he was applying that the Court first proceeds to hear the State's objection before hearing the Appeal as the objection goes to the root of the Appeal in that if the Court proceeds to hear this appeal and if the objection is upheld, this would not augur well. He thus prayed to be allowed to proceed as proposed.

