

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



2013/HP/0976

BETWEEN:

JEFF MUREBWA AND 223 OTHERS**PLAINTIFFS**

AND

DANGOTE QUARRIES (ZAMBIA) LIMITED**1st DEFENDANT****ZAMBIA ENVIRONMENTAL MANAGEMENT AGENCY****2nd DEFENDANT****MAJALIWA MUWAYA****3rd DEFENDANT***(Sued in his capacity as Senior Chief Chiwala)*

**BEFORE HON MRS JUSTICE S. KAUNDA NEWA THIS 13th DAY OF MARCH,
2018**

For the Plaintiffs : *Mr W. Mubanga SC with Mrs V. Mulenga, Chilupe and Permanent Chambers*

For the 1st Defendant : *Ms J. Mutemi, Theotis Mataka and Sampa Legal Practitioners*

For the 2nd Defendant : *No appearance*

For the 3rd Defendant : *Ms N. Nambao, Mulungushi Chambers*

R U L I N G

CASES REFERRED TO:

1. *Chikuta V Chipata Rural District Council 1974 ZR 241*
2. *Shell and BP Zambia Limited V Conidaris and others 1974 ZR 281.*
3. *New Horizon Printing Press Limited V Waterfield Estates Limited and Commissioner of Lands 2005/HP/0748*
4. *Post Newspapers Limited V Rupiah Bwezani Banda SCZ No 25 of 2009*
5. *Kalusha Bwalya V Chadore Properties 2009/HPC/0294 (unreported)*

LEGISLATION REFERRED TO:

- 1. *The High Court Rules, Chapter 27 of the Laws of Zambia***
- 2. *The Rules of the Supreme Court, 1999 edition***

This is a ruling on a preliminary issue raised by the 1st Defendant to the application made by the Plaintiffs, to expunge paragraphs 6-9 of the affidavit in reply to the affidavit in opposition for an order of injunction.

Counsel for the 1st Defendant stated that they relied on the notice to raise preliminary issues as well as the list of authorities, and skeleton arguments filed in support of the said notice. That it was their submission with regard to the cross preliminary issue that it was not in order for State Counsel to swear the affidavit in support of the summons to expunge paragraphs 6-9 of the affidavit in reply, as the same raised contentious issues, which were likely to cause argument, as the contents were disputable.

With regard to the second issue, Counsel submitted that the contents of paragraphs 11-14 of the affidavit in support of the summons to expunge the paragraphs were not in compliance with Order 5 to 15 of the High Court Rules, and that in particular paragraph 11 contained conclusions as it was premised on the previous paragraphs.

On the 3rd preliminary issue, it was stated that the wrong provision of the law had been used to make the application, the same being Order 3 Rule 2 of the High Court Rules, Chapter 27 of the Laws of Zambia, and Order 14A of the Rules of the Supreme Court, 1999 edition. Counsel stated that Order 14A deals with disposal of a matter or an application on a point of law, and the effect is once an application is successfully raised pursuant to that Order, it would finally dispose of a matter. That

