

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

2022/CCZ/0013

**IN THE MATTER OF: ARTICLES 122(2), 128(3)(c) AND 134(a) OF THE
CONSTITUTION**

**MILIMO CHOOKA & ASSOCIATES
(Suing as a Law Firm)**

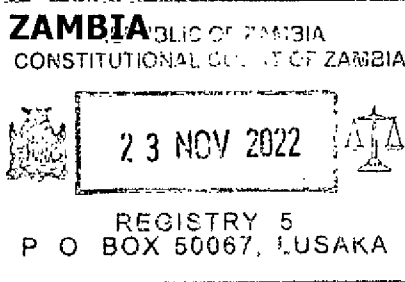
1ST PETITIONER

Captain IGNATIUS MILIMO CHOOKA (Retired)

2ND PETITIONER

AND

THE LAW ASSOCIATION OF



1ST RESPONDENT

HAJI RAZZAK SATTAR

2ND RESPONDENT

RACHEAL MWALE MUBIPE

3RD RESPONDENT

CORAM: Musaluke, Chisunka and Mulongoti, JJC

On 15th September, 2022 and 23rd November, 2022

For the Petitioners:

Mr. A. S. Kokowe of Messrs Milimo Chooka and Associates

For the 1st Respondent

Mrs. S. Chisanga-Miti and Mr. M. Mwenya of Messrs KMG Advocates

For the 2nd and 3rd Respondents:

Mrs. F. Muchiya and Mrs. J. Chimfwembe Messrs Florence Muchiya and Associates

JUDGMENT

Mulongoti, JC, delivered the Judgment of the Court

Cases referred to:

1. *The Attorney General v Sports Newspaper Limited and others* [1992] 1 ALL ER 537
2. *Porter v R, ex p Yee* [1926] 37 CLR 432
3. *Kelvin Bwalya Fube v The Law Association of Zambia* [2013/HP/0838] (unreported)
4. *The Law Association of Zambia v Arnold Chikoli, unreported, [2022] ZMHC 8*
5. *Benjamin Mwelwa v The Attorney General* [2020/CCZ/007]
6. *R v The Disciplinary Tribunal of the Law Society of Kenya ex parte John Wacira Wambugu, Nairobi, JR Misc. Application No. 445 of 2013*
7. *Mushipe (T/A Mushipe and Associates and suing as Executrix and trustees of the late Funny Lungu Yolamu) v Rossi* CAZ Appeal No. 118 of 2020
8. *Ohaga v Akuba Bank Limited*[2008] IEA 300
9. *Griffiths v Evans* [1953] 2 ALL ER 1365
10. *Kelvin Hang'andu and Company (A firm) v Webby Mulubisha* [2008] Z.R Vol. 2 82
11. *Hamalambo v Zambia National Building Society* SCZ Appeal No. 64 of 2013
12. *Finance Bank v Monokandilis and another* SCZ Appeal No. 21 of 2015
13. *Henry Kapoko v The people* CCZ SJ No. 43 of 2017
14. *Joshua Ndipyola Banda v The Attorney General* [2022/CCZ/0010]
15. *Royal Bank of Scotland v Citrusdal Investments Limited* (1971) 3 ALL E.R 558
16. *Bowa and another v Zesco* SCZ Judgment No 2 of 2012
17. *Metropolitan Bank Limited v Pooley* (1884) 10 A.C 210
18. *Bric Back Limited (t/a Gamamwe Ranches) v Neil Kirkpatrick* [2020/CCZ/A002]

- 19. *Development Bank of Zambia and another v Sunvest Limited and another* [1995-97] Z.R 187**

Legislation referred to:

1. ***The Constitution of Zambia Chapter 1 of the Laws of Zambia as amended by the Constitution of Zambia (Amendment) Act No. 2 of 2016***
2. ***The Law Association of Zambia Act Chapter 31 of the Laws of Zambia***
3. ***The Legal Practitioners Act Chapter 30 of the Laws of Zambia***
4. ***The Legal Practitioners Rules of 2002***

Other Works referred to:

1. ***Bryan A. Ganer, edition, Black's Law Dictionary, 9th edition, Thomson Reuters, 2009***
2. ***Halsbury's Law of England, Vol. 37, 4th edition, paragraph 926, page 290***

[1.0] Introduction

[1.1] By way of a petition filed pursuant to Order IV Rule 1 of the Constitutional Court Rules (CCR), Messrs Milimo Chooka & Associates and Captain Ignatius Milimo Chooka (the petitioners herein) allege that the Law Association of Zambia (1st respondent herein) breached the Constitution of the Republic of Zambia when it proceeded to hear and determine a complaint which was lodged

before it by Haji Razzak Sattar and Racheal Mwale Mubipe (2nd and 3rd respondents herein) against the 1st petitioner.

[1.2] That the 1st respondent interfered with the independence and jurisdiction of the High Court because the said complaint involved funds which are at the center of two cases which are yet to be determined by the High Court under cause numbers 2022/HP/0426 and 2022/HPC/0192.

[1.3] In paragraph 29 of the petition it is stated that *“Article 122(2) of the Constitution states that a person shall not interfere with the performance of a judicial function by a Judge or judicial officer”*.

[1.4] And that Article 134 of the Constitution confers unlimited and original jurisdiction on the High Court which jurisdiction is only subject to Article 128 of the Constitution.

[1.5] Therefore, that by proceeding to hear the complaint, the 1st respondent determined a legal issue which has been referred to the High Court and thereby abrogated, contravened and or interfered with the jurisdiction and independence of the Judiciary of Zambia.

[1.6] As a result, the petitioners seek the following relief:

(a) The directive issued by the 1st respondent on 10th June 2022, on matters which are in the dependence of the High Court of Zambia, be stayed pending the proper exercise, by the High Court, of its constitutional mandate as set out under Article 134 of the Constitution, to hear and determine the matters under cause number 2022/HP/0426 and 2022/HPC/0192.

(b) The costs for and occasioned by this Petition be borne by the respondents.

[2.0] Background facts

[2.1] The brief facts leading to the petition are as stated in the petition and affidavit verifying facts sworn by the 2nd petitioner as summarized below.

[2.2] The 1st petitioner acted as legal representative in a property sale transaction between the 2nd respondent as vendor, and the 3rd respondent as intending purchaser. The said property was subject of a High Court order for foreclosure and sale in favour of Investrust Bank Plc under cause number 2018/HPC/0326. An account of the sale was rendered by Investrust Bank Plc and monies due and payable to the 2nd respondent amounting to K279,593.14 were transferred to the 1st petitioner.

[2.3] However, the 1st petitioner neglected to pay these funds to the 2nd respondent. On 4th February, 2022 the 2nd and 3rd respondents launched a complaint to the 1st respondent alleging professional misconduct on the part of the 2nd petitioner. Then on 22nd March, 2022, the 2nd and 3rd respondents sued the 1st petitioner over the same monies in the High Court Principal Registry, after a dispute arose as to whether the petitioner could exercise a lien over the money. This is under cause number 2022/HP/0426. Then on 1st April, 2022 the 1st petitioner counter sued the 2nd and 3rd respondents in the High Court Commercial Division under cause number 2022/HPC/0192.

[2.4] It is further averred that before the matters in the High Court could be heard, the 1st respondent dealt with the complaint and on 10th June, 2022 it directed the 1st petitioner to transfer the money to the 2nd respondent. It is this directive which the petitioner now seeks this Court to determine whether or not by so doing the 1st respondent contravened the provisions of Articles 122(2), 128 (3) and 134 of the Constitution.

[3.0] Petitioners' Argument in Support of the Petition

[3.1] Against the backdrop given above, the petitioners essentially argue that since there are proceedings pending before the High Court where the legal question of whether the 1st petitioner has legal or justifiable right to withhold monies belonging to the 2nd respondent pending determination of an application by the 1st petitioner for taxation of costs; the ruling of 10th June, 2022 by the 1st respondent directing the 1st petitioner to transfer the said monies to the 2nd respondent while proceedings were pending before the High Court, rendered the proceedings nugatory and otiose and contravened Articles 122(2), 128 (3) and 134 of the Constitution.

[3.2] Referencing the *sub judice* rule which, according to the petitioners, is widely understood to refer to the inhibitions that persons must exercise in commenting on matters that are before a Court of law, it is submitted that it was improper for the 1st respondent to hear and make a determination on the complaint contrary to the *sub judice* rule. The case of **The Attorney General v Sports Newspaper Limited and others**¹ was cited wherein the case of **Porter v R, ex p**

Yee² was relied upon for the definition of the *sub judice* rule as follows:

...in case after case in England it has been said that the offence [contempt of court] is committed when the matter is published, with intent to affect or influence, or which is calculated to affect or influence, pending proceedings. Persuasive support for this proposition, with its requirement that proceedings must be pending, may be found also in American cases. The word "pending", in this context, is used in its ordinary legal sense as meaning that the trial or proceedings have been commenced and not completed. This rule applies equally to civil and to criminal proceedings. Once a matter becomes sub judice, and while it remains sub judice, comments that could influence judgment is unlawful. That is the basis of the rule.

[3.3] The petitioners amplified that the 1st respondent interfered with the performance of a judicial function by the Judges seized with conduct of the civil matters under cause numbers 2022/HP/0426 and 2022/HPC/0192.

[3.4] As a result, the 1st respondent contravened the Constitution of the Republic of Zambia when it issued its directive on 10th June, 2022.

[3.5] At the hearing, the petitioners' counsel Mr. Kokowe reiterated that in accordance with the dictates of the Constitution, the 1st respondent is required to recognize the supremacy of the Constitution and to act in accordance with it. He reiterated the petitioners' prayer for a stay of the 1st respondent's decision as it has potential of leading to conflict of decisions.

[4.0] The 1st Respondent's case

[4.1] In response to the petition, the 1st respondent filed an answer which is supported by an affidavit in opposition to affidavit verifying facts. The affidavit in opposition was deposed by Sokwani Peter Chilembo the 1st respondent's honorary secretary.

[4.2] The 1st respondent admits that it proceeded to hear the 2nd and 3rd respondents' complaint in accordance with its legal mandate to inquire into the conduct of legal practitioners as provided by law. Additionally, that there was no order of Court and no legal provision restraining the 1st respondent from exercising its mandate to hear the complaint and render a ruling.

- [4.3] The 1st respondent further denied abrogating or contravening the Constitution and jurisdiction of the Judiciary and that its directive is not in any way derogatory but in accordance with its mandate.
- [4.4] Furthermore, that during the hearing of the complaint, the 2nd petitioner submitted before the committee that he was ready to pay the money he was holding on to. This culminated into the 1st respondent making an *ex-tempore* ruling on 10th June, 2022 wherein it directed the 2nd petitioner to pay the money to the 2nd and 3rd respondents within seven days thereof.
- [4.5] The 1st respondent also filed its skeleton arguments in opposition.
- [4.6] It is submitted that when it heard and determined the complaint lodged by the 2nd and 3rd respondents it acted in accordance with the Law Association of Zambia Act section 4(f) and 13(7) which provide for its mandate.
- [4.7] The cases of **Kelvin Bwalya Fube v The Law Association of Zambia**³ and **The Law Association of Zambia v Arnold Chikoli**⁴ were cited to demonstrate that the Courts have recognized the jurisdiction of

the Law Association of Zambia to discipline its members if found wanting. And, that upon receipt of a complaint, it is within the jurisdiction of the committee to inquire into the matter and determine whether there has been a breach of the rule of conduct.

[4.8] Thus, there was no abrogation of the Constitution when it heard the complaint filed by the 2nd and 3rd respondents against the petitioners. Furthermore, that the said complaint was filed before the two High Court matters were filed in Court. Therefore, the 1st respondent did not interfere in the judicial functions of the High Court but merely performed its legal mandate.

[4.9] Mr. Mwenya the 1st respondent's co - counsel submitted that the directive by the 1st respondent did not interfere with the independence of the High Court, as the High Court will still hear and determine the matters independently as held in the case of **Benjamin Mwelwa v The Attorney General**⁵ that in making their decisions, judicial officers should have freedom to decide without restriction or improper influence.

[4.10] Additionally, that there are parallel proceedings already in the High Court based on the two cases which are dealing with the same subject matter herein.

[5.0] The 2nd and 3rd Respondents' case

[5.1] The 2nd and 3rd respondents filed an Answer supported by an affidavit in opposition to affidavit verifying facts sworn by Racheal Mwale Mubipe, the 3rd respondent herein.

[5.2] The 2nd and 3rd respondents aver that the directive by the 1st respondent has no derogatory effect on the matters pending in the High Court as the said matters have not been heard and determined.

[5.3] That the petitioners had no retainer agreement with the respondents, thus the 1st respondent properly directed them to give the 2nd and 3rd respondents their money.

[5.4] That the petition herein is not a proper case for this Court to determine as there is no Constitutional provision that the 1st respondent breached by directing the 1st petitioner to pay the

2nd and 3rd respondents the money, which he received on their behalf from Investrust Bank Plc.

[5.5] Subsequently, the 3rd respondent lodged a complaint with the 1st respondent in February, 2022 and a month later, the 2nd and 3rd respondents sued the petitioners in the High Court for recovery of the money in contention herein under cause number 2022/HP/0426. Then two weeks later the 1st petitioner counter sued them under cause number 2022/HPC/0192.

[5.6] Consequently, the 1st petitioner's cause is not only an afterthought but also a clear abuse of court process and a multiplicity of actions. Ironically, after the 1st respondent directed the 2nd petitioner to pay the 2nd and 3rd respondents by the 17th June, 2022, the petitioners filed the petition in this Court on that same day.

[5.7] The 2nd and 3rd respondents also filed arguments in opposition to the Petition. The arguments were argued on the basis of four questions. The gist of the 2nd and 3rd respondent's arguments being that the Law Association of Zambia has a mandate to discipline its members as provided in the Law Association of

Zambia Act. Thus, the Association acted within its mandate when it passed its ruling on the complaint, filed before it by the 2nd and 3rd respondents against the petitioners herein for holding on to their monies.

[5.8] It was further submitted that the mandate to discipline members does not fall within the *sub judice* rule. The Kenyan case of **R v The Disciplinary Tribunal of the Law Society of Kenya ex parte John Wacira Wambugu**⁶ was referred to wherein it was held that the mere fact that a matter is the subject of Court proceedings does not *ipso facto* deprive the respondent of the jurisdiction to entertain a complaint arising there from as long as such a complaint is properly one that it is empowered to entertain.

[5.9] Furthermore, that section 83 of the Legal Practitioners Act and Rule 17(1) of the Legal Practitioners Practice Rules Statutory Instrument Number 51 of 2002, requires legal practitioners to sue for and recover fees for services rendered and to inform clients about charges or fees on taking instructions.

[5.10] However, that there are conditions precedent to be fulfilled before a practitioner can recover the fees as held in the case of

Mushipe (T/A Mushipe and Associates and suing as Executrix and Trustees of the late Funny Lungu Yolamu) v Rossi⁷ that in the absence of express instructions, claims for legal fees in respect of services provided and actions done are not legally tenable.

[5.11] The cases of **Ohaga v Akuba Bank Limited**⁸ and **Griffiths v Evans**⁹ were relied upon in aid of the argument that a retainer must be written otherwise a legal practitioner has herself/himself to blame for being at variance with their client.

[5.12] The 2nd and 3rd respondents' also contend that the law on multiplicity of actions estops this petition. Reliance was placed on **Black's Law Dictionary's** definition of '*multiplicity of actions*' as the existence of two or more lawsuits litigating the same issue against the same defendant.

[5.13] Reliance was also placed on the cases of **Kelvin Hang'andu and Company (A firm) v Webby Mulubisha**¹⁰ and **Hamalambo v Zambia National Building Society**¹¹ to the effect that once a matter is before Court all parties involved have an obligation to bring all issues before that particular Court. And, that the Court will not entertain split litigation instituted in chapters, as piecemeal

litigation is a multiplicity of actions, which was defined as commencement of more than one action on the same facts or transactions. Furthermore, that in **Finance Bank v Monokandilis and another**¹² the Supreme Court stated that multiplicity of actions is indeed an abuse of court process.

[5.14] During the hearing Mrs. Muchiya who appeared for the 2nd and 3rd respondents, re-emphasized that the petitioners have not demonstrated how the 1st respondent contravened Articles 122(2), 128 (3) and 134(a) of the Constitution especially that the powers vested in the 1st respondent are granted by an Act of Parliament which has not been challenged for being unconstitutional. The 2nd and 3rd respondents prayed for the petition to be dismissed with costs for lack of merit.

[6.0] **Petitioners' Reply**

[6.1] The petitioners filed an affidavit in reply to all the respondents' affidavits in opposition to the affidavit verifying facts.

[6.2] The affidavit in reply was deposed by the 1st petitioner. He deposed *inter alia* that the fact that there is no pronouncement

or determination under cause 2022/HP/0426 does not in any way take away the jurisdiction vested in the High Court as the matter is still active.

[6.3] Therefore, the 1st respondent has a mandate to perform its functions subject to the provisions of the Constitution especially that the 2nd petitioner told the 1st respondent's committee that the matter they were presiding over had legal questions which were pending determination by the High Court under cause 2022/HP/0426.

[6.4] In their skeleton arguments in reply, the petitioners argue that the Petition is not calling upon this Court to determine the issues presented before the High Court which involves the rights of the parties in relation to the funds being held by the 1st petitioner in its client account but seek the determination of the Court whether or not the 1st respondent contravened the provisions of the Constitution when it proceeded to hear and issue orders and or directives directly affecting the matters before the High Court.

(6.5) It is further submitted regarding conditions required for the Court to grant a stay that these were stated by this Court in the case of **Joshua Ndipyola Banda v The Attorney General**¹⁴.

[6.6] Citing our decision in the case of **Henry Kapoko v The People**¹³ wherein we held that:

It is trite that the Constitution by virtue of Article 1 (1) is the supreme law of the land and no Act of Parliament should contradict it either in letter or spirit. The Constitutional Court is also empowered to strike down any statutory provision that contradicts the Constitution under Article 128(1)(b) upon the application of any person made under Article 128(3)(a).

[6.7] It is argued that the above clearly shows that no person should interfere with the performance of judicial function.

[6.8] It is submitted that in the absence of this Court's pronouncement on this matter or grant of a stay, it would imply that the 1st respondent and indeed any institution created by statute would be at large to carry out parallel proceedings with the High Court and issue orders or directives affecting matters before the Courts of Law.

[6.9] Mr. Kokowe submitted in relation to the **Benjamin Mwelwa v The Attorney General**⁵ case, that the question which arises is what will the High Court decide if the 1st respondent's decision is not stayed.

[7.0] Analysis and Determination

[7.1] We have considered the contents of the petition, the answers the affidavits and the written and oral submissions by the parties.

[7.2] The petitioner alleges that the 1st respondent contravened the following provisions of the Constitution which are couched thus:

Article 122(2) *A person and a person holding a public office shall not interfere with the performance of the judicial function by a Judge or a judicial officer.*

Article 134(a) *The High Court has, subject to Article 128-*
(a) unlimited and original jurisdiction in civil and criminal matters.

The petitioner brought the petition pursuant to Article

128(3) which states: *Subject to Article 28, a person who alleges that-*

(a) an Act of Parliament or Statutory Instrument;

(b) An action, measure or decision taken under law; or

(c) an act, omission, measure or decision by a person or an authority;

Contravenes this Constitution, may petition the Constitutional Court for redress.

[7.3] Consequently, in light of the alleged contravention of these articles, the petitioners seek the following:

(a) *the directive issued by the 1st respondent on 10th June, 2022, on matters which are in the dependence of the High Court of Zambia, be stayed pending the proper exercise by the High Court of its constitutional mandate as set out under Article 134 of the Constitution, to hear and determine the matters under cause number 2022/HP/0426 and 2022/HPC/0192.*

[7.4] The petitioners thus seek a stay pursuant to Article 128(3) of the Constitution. In the main the petitioners are asking us to grant them a stay of the 1st respondent's decision of 10th June, 2022 pending the proper exercise by the High Court of its constitutional mandate and in the petition before us they allege that the 1st respondent has contravened the Constitution. Before we delve into whether the 1st respondent contravened Articles 122 and 134 of the Constitution, we find it imperative to consider

whether the sole relief of a stay sought by the petitioners is tenable before this Court.

[7.5] Essentially, the petitioners commenced this action seeking a stay of the 1st respondent's decision pending determination of the two matters in the High Court. *Black's Law Dictionary*, defines a Stay as follows:

Stay: 1. The postponement or halting of a proceeding, Judgment or the like.

2. An order to suspend all or part of a judicial proceeding or a Judgment resulting from that proceeding

[7.6] It is settled that a stay is an interim relief. A plethora of decisions by courts in this jurisdiction reveal when applications for stay arise. Typically, an application for stay arises where a party who has appealed against an interlocutory ruling seeks a stay of proceedings in the matter before the Court pending the outcome of appeal on the interlocutory decision. The application for a stay is also made after final judgment, when the defendant or plaintiff against whom the judgment was entered has appealed against the judgment seeks to stay execution of the judgment pending the determination of the appeal. Other circumstances include

where a plaintiff commences a matter against the defendant and during the pendency proceeds to initiate another action against the same defendant, he may apply to stay proceedings in the latter case (see the case of **Royal Bank of Scotland v Citrusdal Investments Limited**¹⁵). Furthermore, where leave is granted to commence judicial review proceedings, it may operate as a stay of the decision of an administrative body, tribunal or authority complained against.

[7.7] In sum, an application for stay may be brought where there is an interlocutory appeal or final Judgment in an action between the parties.

[7.8] According to Halsbury's Laws of England, an order for stay is made very sparingly and only in exceptional circumstances. In the petition before us the subject matter of the decision of the 1st respondent which is sought to be stayed is pending litigation in the High Court in two causes. The rationale for a stay is that the *res* (subject matter) of the dispute ought to be stayed in the interest of justice pending determination, as long as the conditions for grant of a stay are met by the applicant. And

being a discretionary order, a stay can only be granted where parties meet the conditions, as set out in a plethora of cases such as **Bowa and another v Zesco**¹⁶ namely that (1) there are prospects of success of the appeal and or matter pending hearing and (2) without a stay the applicant will suffer irreparable ruin or damage. Thus, a stay cannot be the main relief. Put simply, one cannot seek a stay as the main and or final relief in an action as it is granted pending an action or proceedings of which in *casu* are not before us. In the case of **Metropolitan Bank Limited v Pooley**¹⁷ it was held that *“a stay is not usually granted to a party who has not established a right of action and who cannot after all is said and done establish any prima facie claim in law”*.

[7.9] In *casu*, the background facts as outlined reveal that there are currently two cases which are active between the petitioners and the 2nd and 3rd respondents over the same subject which is the monies due to the 2nd and 3rd respondents which monies also emanated from another case which has since been determined to its logical conclusion. The 1st respondent, as the background reveals, has only been sued in the matter before us, because of its decision involving the subject of the two cases pending in the

High Court. Furthermore, we opine that it is mischievous of the petitioners to seek relief of a stay over the two cases, whose subject matter has nothing to do with the petition in this Court.

[7.10] Going by the preceding paragraphs we are of the considered view that the Petition which is only seeking a stay involves the subject of a matters which are before the High Court is misconceived. Clearly, the allegations of contravention in the petition and the relief sought are at variance. The allegations in the petition are not in tandem with the relief sought.

[7.11] The petitioners are thus wrongly before us seeking only an interim relief which they should seek before the High Court where litigation is pending. We held in **Bric Back Limited v Gamamwe Ranches v Neil Kirkpatrick**¹⁸ that:

The Constitutional Court of Zambia is a specialized court, set up to resolve only constitutional questions. In that sense, it is separated from the general court hierarchy under which matters move from the lower courts up to the final court of appeal. In the Zambian court system, all questions of a general nature including procedural questions, must proceed through the courts of general jurisdiction.


[7.12] Article 128 (3) relied on by the 1st petitioner empowers a person to petition the Constitutional Court where it is alleged that an act, omission, measure or decision taken by a person or an authority contravenes this Constitution. The Law Association of Zambia Legal Practitioners Disciplinary Committee acted within its mandate. The proceedings which are alleged to have been interfered with by the 1st respondent are in the general hierarchy of the court system and do not fall within the jurisdiction of the Constitutional Court.

[7.13] Further, Article 128 (3), as alluded to in the preceding paragraph, is an enabling article for a person to petition the Constitutional Court. It does not stand on its own and must be invoked in addition to a specific Constitutional Article offering protection and which protection will have been infringed. The petition is a veiled application for a stay. Clearly, the stay as prayed cannot stand in this Court.

[7.14] We are of the firm view that the petition amounts to multiplicity of actions which borders on abuse of court process. As held in **Development Bank of Zambia and another v Sunvest Limited and**

another¹⁹ where the Supreme Court disapproved of commencing of multiplicity of actions between the same parties over the same set of facts and advised parties to raise whatever issues they wish to raise between them in one action. We warn the parties that in future such conduct will attract an award of costs from this Court against the offending party.

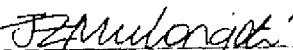
[7.15] The upshot of the preceding paragraphs is that the Petition has no merit. It is accordingly dismissed. Each party to bear own costs.



M. MUSALUKE
CONSTITUTIONAL COURT JUDGE



M. K. CHISUNKA
CONSTITUTIONAL COURT JUDGE



J. Z. MULONGOTI
CONSTITUTIONAL COURT JUDGE