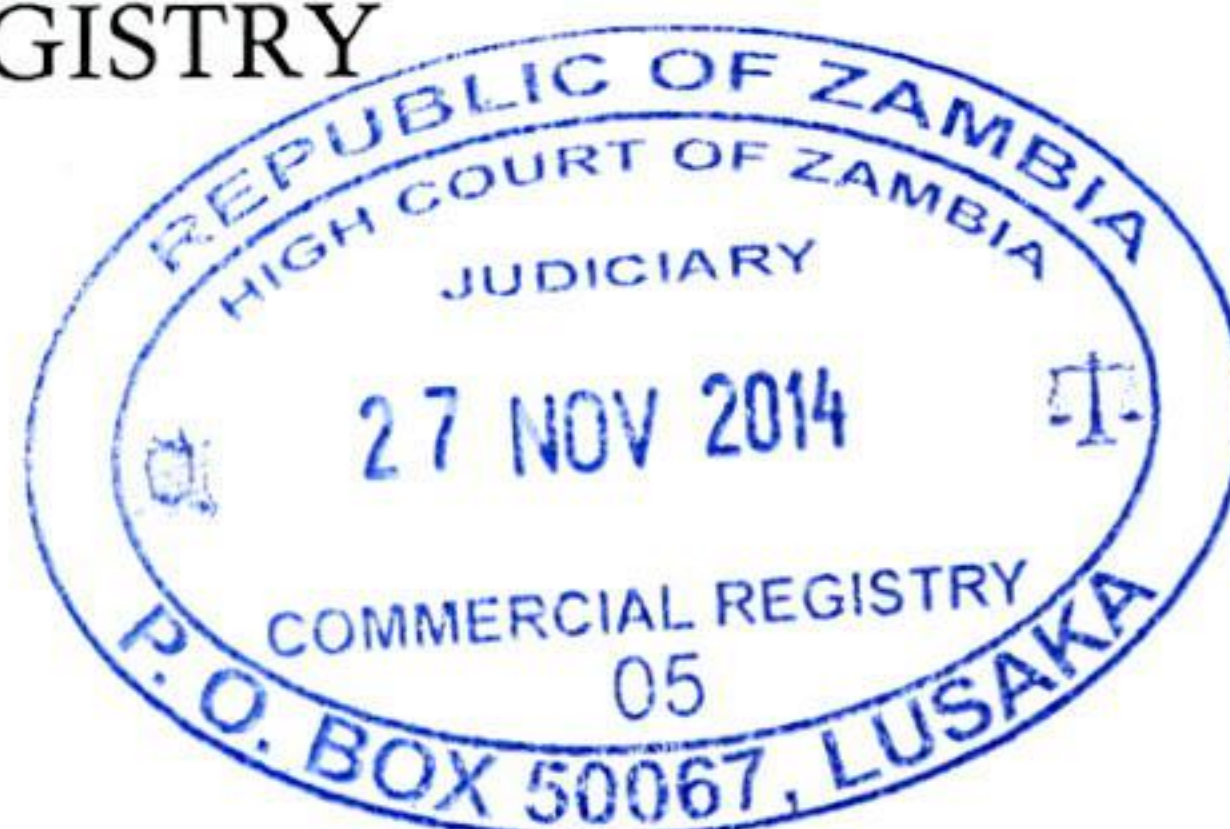


IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2014/HPC/0198



BETWEEN:

COPPER HARVEST FOODS LIMITED

PLAINTIFF

AND

THE ATTORNEY GENERAL

DEFENDANT

**BEFORE HON. MADAM JUSTICE PRISCA MATIMBA NYAMBE, SC AT
LUSAKA IN CHAMBERS**

For the Plaintiff:

Mr. Darlington Mwape
Messrs Darlington and Company

For the Defendant:

No appearance

RULING

List of authorities referred to:

1. Order 52 Rule 9 of the High Court Rules Cap 27 of the Laws of Zambia
2. Section 21(1) of the State Proceedings Act Cap 71 of the Laws of Zambia

On 25th June 2014 a Consent Judgment was entered in favour of the Plaintiff the Defendant having failed to file Appearance and Defence. It was further ordered that the Plaintiff's Liquidated Claim plus interest and costs be subject to assessment by the Learned Deputy Registrar.

The learned Deputy Registrar delivered Judgment on Assessment on 15th August 2014. In that Judgment the Plaintiff was awarded costs to be taxed in default of agreement.

On 12th September 2014 Counsel for the Plaintiff issued an *Ex-parte* Summons for an order for Separate Certificates pursuant to **Order 52 Rule 9 of the High Court Rules Cap 27 of the Laws of Zambia**. In the affidavit in support of the *Ex-parte* Summons for an order for Separate Certificates Counsel, stated in paragraph 9 thereof that an agreement or taxation of costs is yet to be undertaken by the parties.

Section 21(1) of the State Proceedings Act Cap 71 of the Laws of Zambia provides as follows:-

21(1) *"Where in any civil proceedings by or against the State,any order (including an order for costs) is made by any Court in favour of any person against the State.....the proper officer of the Court shall, on application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order, or in case the order provides for the payment of costs and costs require to be taxed, **at any time after the costs have been taxed**, whichever is the latter, issue to that person a certificate in the prescribed form containing particulars of the order.*


Provided that if the Court so directs, a Separate Certificate shall be issued with respect to costs (if any) ordered to be paid to the applicant".

Clearly **Section 21(1)** empowers the Court to issue a Certificate such as the one under consideration **after the costs have been taxed**.

In this case and as stated in paragraph 9 of the affidavit in support of the application to issue Separate Certificates, an agreement or taxation of costs is yet to be undertaken by the parties. The Separate Certificate can therefore only be issued after the costs have been taxed or agreement has been reached.

In view of the above the application for an order to issue Separate Certificates is declined. The matter is referred back to the Deputy Registrar for assessment in the event no agreement is reached.

Dated this...27th...day of November...2014


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Prisca M. Nyambe, SC
JUDGE