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IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA

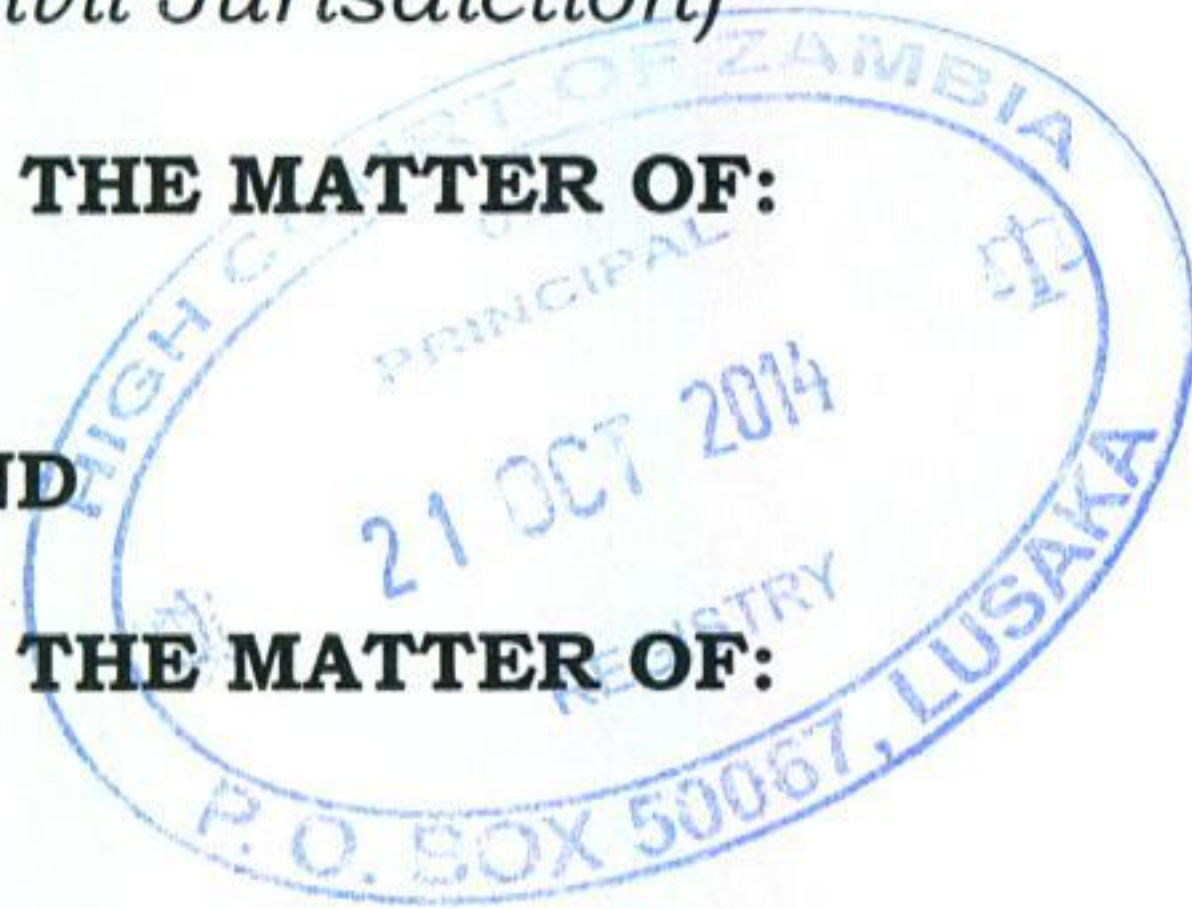
2014/HP/0950

(Civil Jurisdiction)

IN THE MATTER OF:

AND

IN THE MATTER OF:



**THE LANDS AND DEEDS REGISTRY ACT,
CHAPTER 185 OF THE LAWS OF ZAMBIA**

**APPLICATION TO EXTEND TIME WITHIN
WHICH TO REGISTER JUDGMENT
PURSUANT TO SECTION 6(1) OF LANDS
AND DEEDS REGISTRY ACT**

AND

IN THE MATTER OF:

**ZELDAH DALI LUPIYA AND PATRICK
LUPIYA (CO- ADMINISTRATORS OF THE
ESTATE OF THE LATE TEDDIE
SACHIBWANKA LUPIYA)**

BEFORE : HON. G.C. CHAWATAMA - IN CHAMBERS

For the Applicants : Messrs Lungu Simwanza & Company and Messrs Tembo Ngulube and Associates

RULING

CASES REFERRED TO:

1. *Chikuta v Chipata Rural Council (1974) ZR 241*

AUTHORITIES REFERRED TO:

1. *Order 2 Rule 2 of the High Court Act, Cap 27 of the Laws of Zambia*
2. *Section 6(1) of the Lands and Deeds Registry Act Cap 185 of the Laws of Zambia*

This is an application for abridgment of time for hearing the application which was scheduled for hearing on 2nd December, 2014. The application was made pursuant to **Order 2 Rule 2 of the High Court Rules, Cap 27 of the Laws of Zambia**. I allowed this application and went ahead to hear the main application.

The application was for registration of an order of appointment as administrators of the estate of the late **Teddie Sachibwanka Lupiya** at the Lands Registry out of time pursuant to **Section 6(1) of the Lands and Deeds Registry Act Cap 185 of the Laws of Zambia**.

Mr. Simwanza, Co-Counsel for the Applicants relied on two affidavits, one deposed to by Mr. Abel Tembo, Counsel from Messrs Tembo Ngulube and Associates, in support of an Originating Notice of Motion and another affidavit deposed to by one Umair Pardesi in support of summons for Abridgment of Time pursuant to **Order 2 Rule 2 High Court Rules**, afore stated.

This is a very straight forward and non contentious application which I would readily grant, however, I am constrained so to do due to the fact that whilst the caption shows that it is an application by the Administrators of the Estate of late Teddie Sachibwanka Lupiya, there is no evidence that the said administrators are in any way involved in this application. The two affidavits relied on by Mr. Simwanza, are deposed to by Counsel and a third-party to this application.

I must also hasten to point out that it is highly undesirable for the court to rely on affidavits deposed to by Counsel.

The Supreme Court in the case of *Chikuta v Chipata Rural Council (1974) ZR 241* stated the following:

“The increasing practice amongst Lawyers conducting cases of introducing evidence by filing affidavits containing hearsay evidence is not merely ineffective but highly undesirable, particularly where the matters are contentious.”

I am alive to the fact that this issue is not contentious; however, I would like to see the involvement of the applicants in this application.

On this premise I decline to grant this application. Let the Applicants make a fresh application in an appropriate manner.

DELIVERED AT THIS 21st DAY OF OCTOBER 2014.


G.C.M CHAWATAMA
JUDGE