

**IN THE HIGH COURT FOR ZAMBIA  
AT THE PRINCIPAL REGISTRY  
(Civil Jurisdiction)**

**2012/HP/1073**

**BETWEEN:**

CHOONGO HAMANYATI



PLAINTIFF

**AND**

MUBANGA KASAKULA

FIRST DEFENDANT

DIANA MOYO

FIRST DEFENDANT

JOHN CHISHIMBA

THIRD DEFENDANT

SEVENTH DAY ADVENTIST ASSOCIATION IN ZAMBIA

FOURTH DEFENDANT

UNION REGISTERED TRUSTEES

GERALD CHAPENDEKA TEMBO

FIFTH DEFENDANT

SATELLITE FARMERS COOPERATIVE

SIXTH DEFENDANT

**Before the Hon. Mr. Justice D.Y. Sichinga, SC  
in Chambers at Lusaka on the 25<sup>th</sup> day of July, 2014**

For the Plaintiff : Mr. M. Lungu of Messrs Lungu Simwanza & Co.

For the Defendants : Mr. I. C. Ng'onga of Messrs I. C. Ng'onga and Co.

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## **R U L I N G O N R E V I E W**

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This is the Plaintiff's application for review of the Ruling of this Court made on 30<sup>th</sup> April, 2014. The application is made pursuant to *Order 39 of the High Court Rules, Chapter 27 of the Laws of Zambia*.

The application is supported by an affidavit filed on the 13<sup>th</sup> May 2014.

The gist of the affidavit in support is that this court's ruling is contradictory on account that the defendants have no proprietary interest in the subject property and yet the Court ordered that the matter proceed to trial.

There is no affidavit in opposition on the court's record.

I have, in any event seriously considered the averments in the affidavit in support together with the Ruling sought to be reviewed.

At page R19 of the Ruling, I had considered the interpretation of *Section 34 of the Lands and Registry Act Chapter 185 of the Laws of Zambia*. In my consideration, I was of the view that this particular provision was merely stating that the person who alleges the fraud must be one who is deprived of the land. At the Plaintiff's own submissions, it was advanced that at best, the 4<sup>th</sup> Defendant could argue to have an equitable interest in the land, however, the same was not registered. The stated provision cited does not state what interest one alleging fraud should have.

The Defendants in their Defence have specifically pleaded fraud in acquisition of Title which they must prove at trial on a balance

probabilities. I am thus inclined to confirm my order that the matter proceeds to trial to prove the said allegations of fraud.

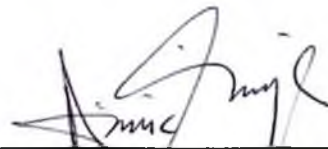
In my view, the issues in this matter, notwithstanding the findings made in my Ruling, are highly contentious. It would thus be in the interest of Justice that they proceed to trial in order that findings of facts are made by the trial court.

Leave to appeal to the Supreme Court is granted.

Costs in the cause.

This matter will now revert to the Judge with conduct.

Dated this 25<sup>th</sup> day of July, 2014.

A handwritten signature in black ink, appearing to read 'D.Y. Sichinga', written over a horizontal line.

**D.Y. SICHINGA, SC**  
**JUDGE**