

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

2014/HPC/0145

BETWEEN:

GUNTILA MULEYA

AND

STEPHEN MWENYE



PLAINTIFF

DEFENDANT

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

For the Plaintiff:                    Mr. E Khosa  
*Ventus Legal Practitioners*

For the Defendant:                *No appearance*

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## JUDGMENT

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**List of authorities referred to:**

1. Order 53 Rule 6 of the High Court Amendment Rules 2012 Cap 27 of the Laws of Zambia

This is the Plaintiff's application for entry of Judgment in default of appearance and Defence brought pursuant to **Order 53 Rule 6 of the High Court Amendment Rules 2012 Cap 27 of the Laws of Zambia**. When the matter came up for hearing on 14<sup>th</sup> May, 2014, both parties were present, the

Defendant having appeared in person. The matter could not proceed for two (02) reasons. Firstly fourteen (14) days had not lapsed after service of the Writ of Summons and secondly the Defendant requested for an adjournment to enable him to instruct a lawyer. For those reasons the matter was adjourned to 23<sup>rd</sup> July 2014.

At the hearing on 23<sup>rd</sup> July 2014, the Defendant did not appear either in person or by Counsel.

The Plaintiff applied and was granted Leave to proceed with the application to enter Judgment in default of appearance and Defence.

In support of the application the Plaintiff relied on an affidavit of service filed on 16<sup>th</sup> May, 2014 which shows that the Defendant was served with Originating Process, which was duly acknowledged by the Defendant on the same day.

The record shows that to-date the Defendant has not filed any defence and has failed to appear despite being present when the matter was adjourned to today's hearing date.


The Rules require that a defence must be entered within the prescribed period failure to which the claim will be regarded as having been admitted.

The Defendant having failed to appear or enter a Defence within the prescribed period, the Plaintiff is clearly entitled to Judgment in default of appearance and Defence.

In the event, I enter Judgment in favour of the Plaintiff as endorsed on the Writ of Summons with interest at the current lending rate as determined by the Bank of Zambia.

Costs shall follow the Cause.

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

  
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**Prisca M. Nyambe, SC**  
**JUDGE**