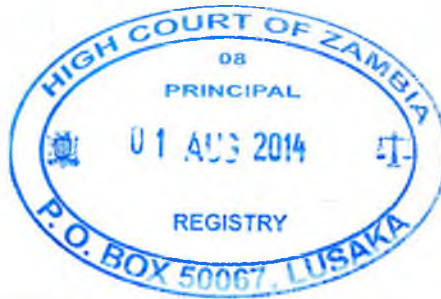


IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
AT LUSAKA

2013/HP/1774

(Civil Jurisdiction)



Between:

LUANSHYA MILLING COMPANY LIMITED

PLAINTIFF

AND

ELIAS MUSONDA

DEFENDANT

Before the Honourable Mr. Justice C.F.R. Mchenga SC

For the Plaintiff: M. Haimbe, Sinkamba Legal Practitioners

For the Defendant: P.G. Katupisha, Milner Katolo & Associates

RULING

The defendant, pursuant to **Order 29 Rules 9 and 10 and Order 29 Rule 18 of the Rules of the Supreme Court 1999 Edition**, applied for an order for payment by the plaintiff into court of rent. The application is supported by an affidavit deposited by the defendant. The plaintiff opposed the application. On 28th May 2014, I

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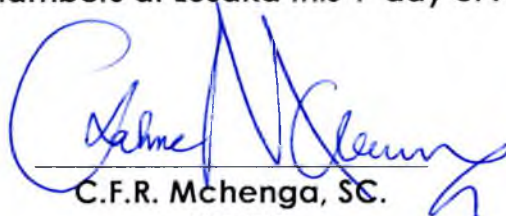
allowed the defendant's application to join Chat Breweries Limited, Goodward Mulubwa, Chat Beverages Limited and CBS Milling to these proceedings.

These proceedings are centred on the ownership of Stand No. 1395 Luanshya. The plaintiff is the registered owner of the property while the defendant claims ownership on the basis of an agreement signed between him and Chat Breweries on 14th December 2002. The "2nd" Clause 2(ii) of the agreement provides that **"Any dispute arising out of this agreement shall first be referred to mediation failing to which the same shall be referred to Arbitration"**

Chat Breweries is now a party to these proceedings, and this being the case, it is appropriate that this matter is referred to mediation. Consequently, I find that ordering that the plaintiff pays into court at this point will be inappropriate. I therefore decline the application.

Costs will be in the cause.

Delivered in chambers at Lusaka this 1st day of August, 2014


C.F.R. Mchenga, SC.
JUDGE