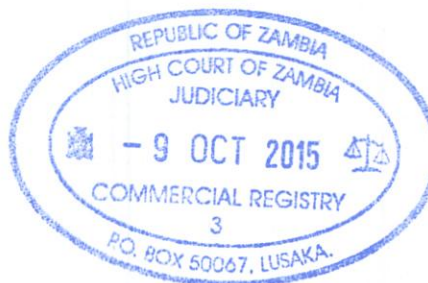


IN THE HIGH COURT FOR ZAMBIA  
AT THE COMMERCIAL REGISTRY  
HOLDEN AT LUSAKA  
(Civil Jurisdiction)

2014/HPC/0445



**BETWEEN:**

BUSH VELDS ENTERPRISES LIMITED

PLAINTIFF

AND

PERFECT CHOICE ENTERPRISE LIMITED

DEFENDANT

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

For the Plaintiff: Mr. R. Musumali  
*SLM Legal Practitioners*

For the Defendant: *No appearance*

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**JUDGMENT**

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**List of authorities referred to:**

1. Order LIII Rule 7(6) of the High Court Rules of Cap 27
2. Order LIII Rule 7(1) of the High Court Rules of Cap 27
3. Order LII Rule 7(5) of the High Court Rules of Cap 27

This is the Plaintiff's application for an Order for entry of Judgment against the Defendant for failure to comply with the Orders for Directions issued in this matter on 8<sup>th</sup> June 2015.

At a status conference of this matter on 29<sup>th</sup> September 2015, Counsel for the Plaintiff, **Mr. Musumali**, informed the Court that the Plaintiff had complied with all the orders for directions by filing and serving upon the Defendant all

the requisite pleadings, *viz*, the reply, bundle of documents, bundle of pleadings, witness statement and skeleton arguments. The Court record will show that the Defendant has not filed all of its requisite pleadings save for its defence which was filed into Court on 10<sup>th</sup> June 2015. It is from the foregoing that **Mr. Musumali** requested this Court to exercise its discretion under **Order LIII Rule 7(6) of the High Court Rules of Cap 27** by making an Order for entry of Judgment in favour of the Plaintiff in respect of the reliefs being sought in the Writ of Summons.

At the last hearing of this matter on 9<sup>th</sup> September 2015, I noted from the Court record that Counsel for the Plaintiff was in attendance and although Counsel for the Defendant from **Messrs H. H. Ndhlovu & Co.** was not present, he in his stead sent **Ms Kanembwa Sinyenga**, a Learner Legal Practitioner at the firm, to have the matter adjourned and the parties agreed on 29<sup>th</sup> September 2015 at 09:45 hours. I am therefore satisfied that the Defendant is aware of this hearing date despite the non-appearance by Counsel on behalf of the Defendant.

I have perused the Court record and noted that indeed the Plaintiff has complied with the Orders for Directions issued on 8<sup>th</sup> June 2015 by filing their reply, list of documents, bundle of documents, bundle of pleadings, witness statement and Combined List of Authorities and Skeleton Arguments. I note however that the Defendant has only filed its defence and has therefore failed to file its bundle of documents, bundle of pleadings, witness statement and skeleton arguments in accordance with the orders for directions herein.

It is trite that Commercial Court Rules were designed to achieve expeditious litigation of matters and that parties to the action should comply with the Rules strictly. With specific reference to orders for directions, **Order LIII Rule 7(1) of the High Court Rules of Cap 27** has emphasized that the parties should strictly adhere to directions for trial once issued by the Court.

In *casu*, the Defendant is clearly in breach of the orders for directions without any cause, explanation or justification. This has put the matter in a state that I may not proceed to fix a date for trial because **Order LII Rule 7(5) of the High Court Rules of Cap 27** requires that a trial date can only be set after the exchange all the documents agreed upon or ordered at Scheduling Conference.

I am satisfied that under the Rules of this Court, and specifically **Order LIII Rule 7(6) of the High Court Rules of Cap 27** relied upon by Counsel for the Plaintiff, I am empowered at Status Conference to review the status and progress of the matter and make any order that is in the interest of justice to the parties. It is my considered view that considering the circumstances of this matter, this is proper case to exercise my discretion to favour of the Plaintiff as this will be in the interest of justice.

I hereby Order that final Judgment be entered in favour of the Plaintiff against the Defendant as prayed.

**Order:-**

1. I enter Judgment in favour of the Plaintiff in the sum of K66,200.00 being the outstanding amount due under the agreement entered into between the Plaintiff and Defendant to hire out the Plaintiff's vehicle, Toyota Prado Registration No. ALK 6116, on 30<sup>th</sup> November, 2013.
2. The Plaintiff is entitled to costs of repairing the vehicle and damages for loss of use of the vehicle, both claims to be assessed by the Honourable Deputy Registrar.
3. I also award interest on the claim at the Bank of Zambia lending rate from date of Cause of action until final settlement.
4. Costs are awarded to the Plaintiff, to be taxed in default of agreement.

Right to Appeal granted.

Dated this.....<sup>9th</sup> day of <sup>October</sup>.....2015



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