

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

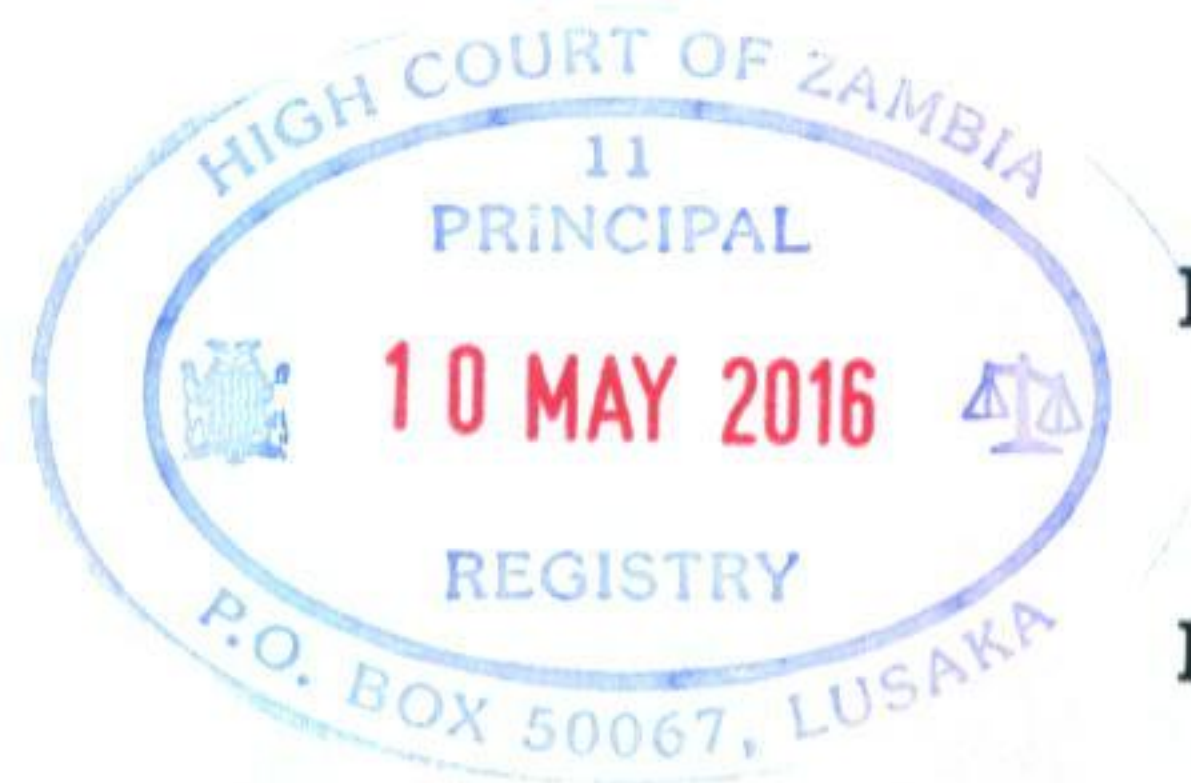
2014/HP/610

BETWEEN:

JOY MATHEWS SINYANGWE

AND

MBACHI LIGHTWELL KAONGA



PLAINTIFF

DEFENDANT

BEFORE : HON. G.C. CHAWATAMA

For the Applicant : Mr. M. Sinyangwe – Messrs Douglas & Partners

For the Respondent : Mr. Silweya – Silweya & Company

RULING

By way of writ of summons and statement of claim filed on the 24th April, 2014, the Plaintiff sought the following:-

- I. *Damages for trespass to land*
- II. *An order of injunction restraining the Defendant whether by himself, his agents and/or his servants from interfering with the Plaintiffs quite enjoyment of his land known as subdivision A of Lot 38 situate at Palabana in Lusaka Province of Zambia.*
- III. *Costs of those proceedings*
- IV. *Any other relief the court may deem fit.*

A memorandum of appearance was filed on the 30th April, 2014. An amended defence and counter claim was filed on the 7th August, 2014. The matter was referred to mediation which mediation filed. The court visited the site to have an understanding of the presence of all the parties plus officials from the Surveyor General's Office.

The matter was to be heard on the 10th December, 2015. However, the court was informed on that day that Mr. Zulu State Counsel had filed summons to add Mise Banda and Mary Banda's who were Administrators of the estate of Henry Dennis Banda as 2nd and 3rd Defendants.

I have perused the summons to add Mise and Mary Banda and the affidavit in support of the same. I have had sight of the skeleton arguments in support of summons to add the said Mise and Mary Banda as 1st and 2nd Intervener. On the 3rd December, 2015 the Defendants filed submissions and Heads of Arguments and Authorities.

Whilst I have taken the provisions of order 15 rule 6(2)(b) Rules of the Supreme Court and the authorities from both sides into considerations. I have not lost sight of the fact that there is nothing before me as evidence that Mise Banda and Mary Banda indeed obtained letters of Administration on the 3rd July, 2003 from the Probate Registrar for the estate of their late father Henry Dennis Banda who died intestate.

Although I have no doubt that they could be useful witnesses, the application that they be added to these proceedings is denied.

Leave to appeal is granted.

DELIVERED AT LUSAKA THIS 10TH DAY OF MAY, 2016.


G.C.M CHAWATAMA
JUDGE