

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

2013/HPC/0145



BETWEEN:

INDO – ZAMBIA BANK LIMITED
AND
LEONARD MWELWA
WITIKA DORIS MWELWA

APPLICANT

1ST RESPONDENT
2ND RESPONDENT

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

For the Applicant:

Mr. Pindani

Messrs Chonta, Musaila & Pindani Advocates

For the 1st Respondent:

In person

Referee:

No appearance

RULING

List of authorities referred to:

1. Order XXIII of the High Court Rules Cap 27 of the Laws of Zambia

AFTER listening to submissions by Counsel for the Applicant and the Respondent, **TAKING** into account the fact that Counsel for the Applicant is of the view that the issues in this case are novel, I will grant Stay of Execution of the Judgment in PART ONLY:

NOTING that a Stay of Execution of a Judgment is not automatic and is at the discretion of the Court;

AND the Applicant not having provided any reason why the costs of the Referee should not be paid;

GIVEN that the Costs are for work done by the Referee appointed by the Court, PURSUANT to **Order XXIII of the High Court Rules Cap 27 of the Laws of Zambia** a Stay of Execution of the Judgment rendered on 18th December 2015 as pleaded in ground 4 of the grounds of Appeal fails for lack of legal justification as the Referee was appointed by the Court in accordance with the Rules. It goes without saying that the Referee has to be paid for work done.

Order:-

Stay of execution is declined in respect of the Referee's costs.

It is **FURTHER ORDERED** that the issue of the Referee's costs is hereby referred to the Deputy Registrar, Commercial List for assessment, taking into account the indepth investigations undertaken by the Referee. In all other respects the Stay of Execution of Judgment is granted.

Dated this.....^{4th}.....day of February.....2016


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Prisca M. Nyambe, SC
JUDGE