

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

**2017/HPC/0128**

**B E T W E E N:**

**ALEX MUNAKI**

**PLAINTIFF**

**AND**

**MELVIN CHISANGA**

**DEFENDANT**

**OSWALD MIYOBA**

**CLAIMANT**



*Delivered in Chambers before the Honourable Mr. Justice Sunday B. Nkonde, SC at Lusaka this 9<sup>th</sup> day of August, 2017.*

*For the Plaintiff : N/A*

*For the Defendant : In Person*

*For the Claimant : In person*

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## **R U L I N G**

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This is a short Ruling on the Sheriff's inter-pleader application filed into Court on 22<sup>nd</sup> June, 2017 after the Claimant had filed Notice of Claim for his goods taken in

execution under Judgment between the Plaintiff and the Defendant dated 27<sup>th</sup> April, 2017. The goods referred to are: 1 Canopy, 6 Chairs and 1 Water Dispenser. The Claimant exhibited evidence of ownership in form of a Tax Invoice dated 7<sup>th</sup> August, 2009 in the name of Tomi Investment Limited and a Cash Receipt dated 23<sup>rd</sup> September, 2006 in the name of the Claimant for the Canopy and Dispenser retrospectively. No evidence of ownership of the 6 Chairs was shown as the Claimant claims the Receipts were lost.

The record does not show that the Plaintiff admitted or disputed the Claimant's claim. I will, therefore, proceed in the premise that the claim is not disputed.

I have carefully considered the claim. I find that there is sufficient proof of ownership of the Dispenser shown by the Claimant. I am also satisfied that in the absence of a challenge from the Plaintiff, ownership of the 6 Chairs is proved by the Claimant. However, the Canopy being in the name of Tomi Investments Limited, it was for the Claimant to make a connection between him and this Limited Company. This was not done and I am, therefore, not satisfied that the seized Canopy belongs to the Claimant.

In view of the foregoing, I note that the Claimant has succeeded on the claim for the Dispenser and the 6 Chairs only which should be returned to the Claimant, and the rest of the goods be sold in satisfaction of the Judgment debt.

In terms of the Sheriff's Commission and costs for execution, there is ample evidence that the claimed goods were seized at the same place where the

Defendant's goods were found. In that event, the Defendant shall bear the Sheriff's Commission and costs of execution.

Dated at Lusaka this 9<sup>th</sup> day of August, 2017.

  
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HON. MR. JUSTICE SUNDAY B. NKONDE, SC  
**HIGH COURT JUDGE**