

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

2007/HP/1001



BETWEEN:

UNITED QUARRIES LIMITED

PLAINTIFF

AND

CHONGWE DISTRICT COUNCIL

DEFENDANT

**BEFORE THE HON. MRS JUSTICE S. M WANJELANI IN
CHAMBERS ON THE 23RD DAY OF FEBRUARY, 2018**

For the Applicant: Mr. K. Shepande, Messrs Shepande & Company

For the Respondent: N/A

RULING

Case referred to:

1. *Sonny Paul Mulenga and Others v Investrust Merchant Bank Limited (1999) ZR 101*

Legislation referred to:

1. *High Court Rules, Chapter 27 of the Laws of Zambia.*
2. *Rules of the Supreme Court, 1999 Edition*

This is the Ruling on the Defendant's application for a Stay of Execution of the Court's Judgment delivered on 1st February, 2017, in favour of the Plaintiff. The Application was filed on 15th

September, 2017, pursuant to **Order 45 Rule 11 of the Rules of the Supreme Court.**

The Application is supported by an Affidavit sworn by **YU WANG PING**, a Director of the Defendant Company, in which he averred that on 3rd March, 2017, his Advocates filed an Ex-parte Summons to Stay Execution of the Judgement Pending Appeal together with an Affidavit in Support as well as the NOTICE and GROUNDS of APPEAL, exhibited and marked "**YWP1**". The Deponent contended that the file was wrongly allocated to Hon. Justice Chashi, who instructed his Marshal to call the Defendant's Advocates, who were not called and the Honourable Judge then dismissed the application stating that it was wrongly before him.

He added that the Defendant seek that the application be heard by the appropriate Court as the Defendant was desirous to pursue the application for stay of Execution of Judgement dated 1st February, 2017 because if execution was done the Appeal would be rendered nugatory and an academic exercise.

The Plaintiff did not file an Affidavit in Opposition or attending the hearing. The Affidavit in Opposition to the Defendant's application for an Adjournment shows that the Plaintiff is aware of the proceedings and opted to stay away and thus I allowed the Defendant to proceed. Counsel for the Defendant submitted that the Notice of Appeal was filed on 10th March, 2017 and the Court of Appeal heard the matter on 6th September, 2017 and therefore the

