

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

2019/HPF/A003



BETWEEN:

PAUL ZAMBEZI
ENOCK SAKALA
CLEMENTINA LUBASI

1st APPELLANT
2nd APPELLANT
3rd APPELLANT

AND

NOEL SANDUKIYA

RESPONDENT

Before Honourable Mrs. Justice M. Mapani-Kawimbe in Chambers on the 2nd day of March 2020.

For the Respondent: Ex parte

RULING

Legislation Referred To:

1. *High Court Act, Chapter 27*

1.1 On 14th January 2020, the plaintiff filed ex-parte summons into Court for leave to apply for review out of time against the decision of the Court delivered on 12th December 2019 pursuant to Order 39 Rule 2 of the High Court Rules. I have considered the application and wish to state from the outset that the power of review is set out in Order 39 of the High Court Rules which says:

"1. Any Judge may, upon such grounds as he shall consider sufficient, review any judgment or decision given by him (except where either party shall have obtained leave to appeal, and such appeal is not withdrawn), and upon such review, it shall be lawful for him to open and rehear the case

wholly or in part, and to take fresh evidence, and to review, vary or confirm his previous judgment or decision:

Provided that where the Judge who was seised of the matter has since died or ceased to have jurisdiction for any reason, another judge may review the matter.

2. Any application for review of any judgment or decision must be made not later than fourteen days after such judgment or decision. After the expiration of fourteen days, an application for review shall not be admitted, except by special leave of the Judge on such terms as seem just."

1.2 Accordingly, a Judge may review any judgment or decision given. In undertaking review, a Judge can hear a case wholly or in part or take fresh evidence so as to reverse or vary or confirm a judgment or decision. A party seeking review is required to make an application within 14 days of a judgment or decision. After the expiration of 14 days, a party must seek leave of Court.

1.3 From the affidavit evidence, it is clear to me that the respondent has not given any valid reason for his delay in making the application for review. What he says is that he was still looking for relevant documents. This explanation is totally unsatisfactory and on that ground alone, this application fails.

Dated this 2nd day of March 2020.

M. Mapani-Kawimbe
M. Mapani-Kawimbe
HIGH COURT JUDGE