

IN THE HIGH COURT FOR ZAMBIA

2024/HN/176

AT THE NDOLA DISTRICT REGISTRY

HOLDEN AT NDOLA

(Civil Jurisdiction)



BETWEEN:

DAMIANO MUTALE

(Suing in his capacity as Vice Secretary General of Damiano Academy Football Club)

1ST PLAINTIFF

MABVUTO PHIRI

2ND PLAINTIFF

AND

ANDREW KAMANGA

(Sued in his capacity as President of the Football Association of Zambia (FAZ))

1ST DEFENDANT

REUBEN KAMANGA

(Sued in his capacity as General Secretary of the Football Association of Zambia (FAZ))

2ND DEFENDANT

Before Hon. Mr. Justice G. Malumani

For the Plaintiffs: Mr. P. Chola of messrs Lewis, Nathan Advocates, Lusaka.

- Mrs. J. Hara of Messrs Sampa Bwalya, Advocates, Kitwe.

For the Defendants: Mr. P.K. Chibundi of Messrs Mosha & Co. Lusaka.

- Mr. C. Chali Chitala Advocates, Kitwe.
- Mr. S.F. Chipombela of Messrs Joseph Chirwa & Co. Lusaka.

EXTEMPORE RULING ON ADJOURNMENT

1.0 On Saturday 27th April, 2024 at about 09:45 hours, I heard the *exparte* motion to discharge the *exparte* order of the interlocutory injunction earlier granted in this matter. By a 16 paged handwritten extempore ruling immediately delivered thereafter, I declined to discharge the said order. I found it desirable to *inter alia* order for abridgment of time for the interparte hearing. I rescheduled the hearing to today 2nd May, 2024 at 09:00 hours.

2.0 It was my considered view that abridgment of time and according all the parties an opportunity to argue the interim motion at once is what would properly meet the justice of this matter at this stage. Like I indicated in the other ruling, I do not subscribe to the “**back and forth**” kind of decision making. It does not only exhibit inconsistencies but tends to erode confidence to the public eye. At the risk of monotony, the said approach tends to create the view that the courts casually grant reliefs sought.

3.0 It is upon this background that I was set and hopeful that counsel for the parties would be ready for the interpartes today especially having regard to the nature of the matter involved; it is of public interest. I take judicial notice to that effect.

4.0 The turn of events is quite of concern that the parties are all not ready to proceed. Of course the reasons advanced are genuine. It is noted that:

4.1.1 There has been no service of the processes taken out by the plaintiffs. There is no affidavit of service on the defendants to enable them react by an affidavit in opposition and skeleton arguments as counsel Chibundi for the defendants have eloquently submitted.

4.1.2 There is an application for joinder by another (intended party).

- 4.1.3 There is also an application to refer this matter to the Constitutional Court by the plaintiffs. There are now 3 pending interlocutory motions as of today.
- 5.0 It is upon this background, that counsel for the parties have sought for the indulgency of this court (by consent) to adjourn the matter. From what is apparent, counsel for the parties have reasonable excuse not to proceed this morning. This explains why all moved by consent.
- 6.0 Notwithstanding, I will still sound a warning to all the parties to ensure that they are ready at the next sitting. Like I indicated off record, our diaries are highly congested. My matters go up to almost end of the year. I had to exercise **judicial activism** to find space for this matter.
- 7.0 Parties ought to bear in mind, that a Judge or Court cannot allow adjournments on flimsy grounds. An application to adjourn may only be entertained on

compelling and/or exceptional grounds. And strictly, the rules require not less than 10 days' notice in advance. The *locus classicus* is order 33 rule (1) and (2) of the High Court Rules chapter 27 v. 3 of the Laws of Zambia (S.I No. 58 of 2020); though exercised in default at times.

8.0 Invariably, I will and do hereby reluctantly allow the "*the oral consent*" application to adjourn. Matter stand adjourned to 9th May, 2024 at 09:00 hours being the date suggested by all counsel.

9.0 Costs in the cause.

**DELIVERED AT NDOLA IN CHAMBERS THIS 2ND DAY OF
MAY, 2024**


G. MALUMANI
HIGH COURT JUDGE

