

IN THE SUPREME COURT OF ZAMBIA

HOLDEN AT LUSAKA

(Civil Jurisdiction)

B E T W E E N :

VILLAGE HEADMAN MWANAMBINYI
(ALIAS DICKSON MWANGALA)

Appellant

and

ZAMBIA CONSOLIDATED COPPER MINES
LIMITED

Respondent

Coram: Bweupe, D.C.J. Sakala and Chirwa, JJ.S

On 2nd September, 1993

For the Appellant: Mr. Nosiku Kawanambulu of Nosiku Kawanambulu & Co.

For the Respondent: Mr. E.M.S. Sifanu, ZCCM Legal Counsel

JUDGMENT

Bweupe, D.C.J. delivered the judgment of the Court.

This is an appeal against the decision of the learned High Court Judge allowing the appeal against the decision of the learned District Registrar striking out the defendant's statement of defence on account that it did not disclose triable issues.

The appellant has filed and argued four grounds of appeal. The learned Counsel for the appellant, Mr. Kawanambulu has argued that the Defendant's defence is bad and consequently does not raise triable issues.

Mr. Sifanu on the other hand, has argued that triable issues have been raised which would entitle the Court to order that the case should proceed to trial.

We do not intend to dwell upon all the arguments raised but suffice it to say that we have carefully considered the defence filed and arguments submitted for and against and, taking into

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account the totality of the matters pleaded such as ownership of the land, matters disclosed but not disposed of in the Subordinate Court judgment relied upon, we are of the view that triable issues have been adequately raised.

Having therefore heard the appellant's Counsel and considering the Plaintiff's statement of claim and the Defendant's defence we are of the view that triable issues have manifested in this case for the parties to proceed with the trial. We have no reason to upset the judgment of the court below.

In the circumstances, the appeal is dismissed and direct that the case must proceed in the usual way that is as the order of direction has already been made, that order should be followed.

B. K. Sweipe
DEPUTY CHIEF JUSTICE

E. L. Sakala
SUPREME COURT JUDGE

D. K. Chirwa
SUPREME COURT JUDGE