

IN THE SUPREME COURT OF ZAMBIA

SCZ APPEAL NO. 63/99

HOLDEN AT LUSAKA

(Civil Jurisdiction)

BETWEEN:

**DR. K.D. KAUNDA**

**APPELLANT**

**AND**

**DR. REMMY K.K. MUSHOTA**

**1<sup>ST</sup> RESPONDENT**

**PATRICK KATYOKA**

**2<sup>ND</sup> RESPONDENT**

Coram: Sakala, ACJ, Chaila, ADCJ; Chirwa, Muzyamba,  
Lewanika, Chibesakunda, JJS and Mambilima, AJS

14<sup>th</sup> September, 2000

For the Appellant: Messrs M. Chona, SC, and J. Sakala, SC; Prof. Mvunga; Mr. S.  
Sikota, Mrs. N. Zaloumis, Mrs. N. Mutti and Mr. C. Mundia.

For the 1<sup>st</sup> Respondent: N/A

For the 2<sup>nd</sup> Respondent: In Person

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**RULING**

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Chaila, ADCJ, delivered the Ruling of the court.

There were four applications before us, namely:

1. to join Mr. Chibesa as 1<sup>st</sup> Respondent as administrator of the estate of the deceased Dr. Mushota;
2. an amended application for leave to appeal out of time by the Attorney General;

3. a preliminary issue on the composition of the bench by the 2<sup>nd</sup> Respondent;
4. an application for security of costs by the 2<sup>nd</sup> Respondent.

We heard all these applications and we have considered all of them. Our rulings are as follows:

1. On the joinder of the administrator, we allow the application to join the administrator of the estate subject to him filing letters of administration issued by a court of competent jurisdiction and must be filed in the Supreme Court Registry within 10 days of the date hereof.
2. As regards the 2<sup>nd</sup> application by the Attorney General for leave to appeal out of time, the application is granted a notice of appeal and a memorandum of appeal must be filed within 10 days from the date hereof.
3. As regards the preliminary issue raised by the 2<sup>nd</sup> Respondent, this has been withdrawn or abandoned and properly so in our view because had he gone ahead, he risked being held in contempt of this court.
4. As regards the application for security of costs by the 2<sup>nd</sup> Respondent, we have looked at our Rules and Order 59 of the Rules of the Supreme Court and we are satisfied that the application does not comply with our Order 59 in that:
  - a. It was not made promptly; it was only filed yesterday (13/09/2000).
  - b. It does not give a detailed estimate of the costs of the appeal; and
  - c. It does not disclose special circumstances warranting us to order security of costs. This application is therefore refused.

Costs of these applications will abide the outcome of the appeal.

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E.L. SAKALA  
ACTING CHIEF JUSTICE

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M.S. CHAILA  
ACTING DEPUTY CHIEF JUSTICE

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D.K. CHIRWA  
SUPREME COURT JUDGE

.....  
W.M. MUZYAMBA  
SUPREME COURT JUDGE

.....  
D.M. LEWANIKA  
SUPREME COURT JUDGE

.....  
L.P. CHIBESAKUNDA  
SUPREME COURT JUDGE

.....  
I.C. MAMBILIMA  
ACING SUPREME COURT  
JUDGE