

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

2015/HP/A035 <sup>33</sup> JPC

**BETWEEN:**

**UMUKATE BAKERY**

**APPELLANT**

**AND**

**EDWARD KUNDA**

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

**LOVEMORE LUNGU**

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

*For the Applicant:*

*Mr. H. Kabwe – Messrs Hobday Kabwe &  
Company*

*Mr. G. Chongo – Learner Legal Practitioner*

*For the Respondents:*

*In person*

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**RULING**

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I have perused the courts file. There is no record of appeal neither were security for costs paid. Learned counsel for the Appellant has pointed out that he has had challenges to get the record of appeal and the Lower Court declined the review of the security for costs which are almost equal to the award made.

Section 31 of the subordinate Court act Cap 28 requires that the appellants comply with the conditions of appeal from the Subordinate Court otherwise the High Court should not entertain any appeal.

I was inclined to dismiss the purported appeal on account of the fact that there is no appeal properly before me. Leave to appeal was granted to the appellant on 29<sup>th</sup> October, 2014.

The respondents have certainly been deprived of the fruits of their judgment. Taking into account the challenges the learned counsel has been facing in the preparation of the record of appeal, I will invoke the provisions of order 3 Rule 2 of the High Court Act Cap 27 of the Laws of Zambia and I hereby grant the Appellant 40 days from the date hereof to comply with the orders of the Subordinate Court in submitting a record of appeal.

Should the appellant fail to comply with the within written order, the appeal will stand dismissed with costs without any prior application by the respondents.

I award today's wasted costs to the respondent which are restricted to reimbursement of reasonable travel disbursements which are to be agreed, in default to be taxed by the taxing master of the High Court.

The matter comes up on 30<sup>th</sup> November, 2016 at 08:30 hours.

Dated the *29<sup>th</sup>* ..... day of October, 2016

  
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**Mwila Chitabo, SC**  
**Judge**