

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**

(Civil Jurisdiction)

2016/HP/0749



BETWEEN:

ZAMBIA REVENUE AUTHORITY

PLAINTIFF

AND

KELVIN HANG'ANDU *(A Legal Practitioner)*

DEFENDANT

CORAM: HONORABLE JUSTICE MR. MWILA CHITABO, SC

For the Plaintiff:

*Mrs. S.Z Banda (Legal Officer) with Mr.
Brian Chibesa Learner Legal Practitioner*

For the Defendant:

N/A

R U L I N G

Cases referred to:

1. *Leonard Banda and Dora Siliya SCJ No. 20 of 2013*

Legislation referred to:

1. *Rules of the Supreme Court of England (1999 edition)*

The genesis of this matter insofar as it relates to this application is that the defendant on 26th September, 2016 launched proceedings

of committal pursuant to Order 52 of the Supreme Court Rules and Practice¹. The application was supported by an affidavit. At the hearing of the application on the return date the plaintiff did not attend.

Learned Counsel for the plaintiff Mrs. Banda, a legal officer raised a preliminary issue in limine submitting that the application launched by the defendant was irregular.

She called in aid Order 52 (2) of the Supreme Court Rules that requires an application to be made for grant of leave to commence committal proceedings.

It was her argument that in the absence of such leave, the plaintiffs' application was incompetent. Learned counsel then enlisted the Supreme Court decision of ***Leonard Banda and Dora Siliya***¹ in support of her proposition.

I have perused through the courts file and I am satisfied that no prior leave was sought on which to anchor the commencement of committal proceedings. This position was succinctly expounded in the case of ***Leonard Banda and Dora Siliya***¹.

I have therefore no hesitation in agreeing with the submissions of the learned counsel Mrs. Banda.

The purported application by the plaintiff commencing committal proceedings is null and void and is hereby dismissed with costs which costs are to be taxed in default of agreement.

Leave to appeal is denied.

Dated at Lusaka this ^{25th}..... day of October, 2016



Mwila Chitabo, SC
Judge