

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

2014/HP/A052



BETWEEN:

MASIYE WILFRED BANDA & 30 OTHERS

APPELLANTS

AND

**THE MINISTER OF LANDS, NATURAL
RESOURCES & ENVIRONMENTAL
PROTECTION**

1ST RESPONDENT

**THE ATTORNEY GENERAL
LILUME QUARRY (Z) LIMITED**

2ND RESPONDENT

3RD RESPONDENT

CORAM: HONOURABLE JUSTICE MR. MWILA CHITABO, SC

For the Appellants:

*Mr. Sam Lee Chisulo, SC – Messrs Chisulo
& Company*

For the Respondents:

*Mrs. K. Mundia – Assistant Senior State
Advocate*

R U L I N G

Cases Referred to:

1. *Twampane Mining Co-operatives Society Limited v. E.M Storti Limited* (2011) 3 ZR 67

The legend of this matter upon gleaning the Court's record reveals that the Appellants have consistently elected to keep away from Court on the previous appointed dates and times.

It is the duty of the Appellants to vigorously prosecute their appeal. Litigants who chose to ignore Court orders do so entirely at their own peril. (***See the case of Twampane Mining Co-operative Society Ltd v. E.M Storti Ltd***).

Equity assists the vigilant and not the indolent. It is apparent and quite obvious that the Appellants have no zeal to prosecute their claim.

I have factored in the predicament that Learned State Counsel Mr. Chisulo finds himself in. I have noted the application of the Learned Senior Counsel Mrs. Mundia Assistant Senior State Advocate to have the matter struck off the cause list.

I have no hesitation in forming a very firm view and agreeing with the Learned Senior Counsel that this is a fit and proper case to strike out from the active cause list.

I hereby therefore invoke the provisions of Order XXXV (1) of the High Court Rules Chapter 27 of the Laws of Zambia and strike off the matter (appeal) from the active cause list with liberty to restore within 14 days in default the appeal to stand dismissed for want of prosecution.

Ordinarily costs follow the event unless there is a good cause why the other party should be deprived of the earned cost. Costs are

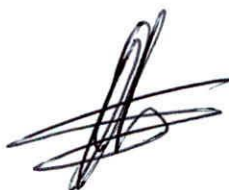
discretionary but in exercising the discretion the court should judiciously consider the matter.

In the case in casu, State Counsel Mr. Chisulo a very senior member of the Bar and a member of the inner circle had come to the Court and true to his rank and honour as an officer of the Court had come to attend Court.

The justice of this case is that for today, I make no order as to costs.

The matter comes up on 22nd November, 2016 at 08:30 hours purely for monitoring and possible drawing up of the dismissal order if the Appellants exercise their right not to apply for restoration.

Dated this 22nd day of November, 2016



Mwila Chitabo, SC
Judge