

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

**2016/HPC/0518**

**IN THE MATTER OF: POST NEWSPAPERS LIMITED**

**IN THE MATTER OF: THE COMPANIES ACT, CHAPTER 388 OF THE LAWS OF ZAMBIA**

**IN THE MATTER OF: THE RULES OF THE SUPREME COURT PRACTICE, 1999 EDITION**

**IN THE MATTER OF: SECTION 4 OF THE LAW ASSOCIATION OF ZAMBIA ACT,  
CHAPTER 31 OF THE LAWS OF ZAMBIA**

**BETWEEN:**

**ANDREW HERBERT CHIWENDA  
ROY HABAAU  
BONAVENTURE BWALYA  
MWENDALUBI MWEENE  
ABEL MBOOZI  
ZAMBIA REVENUE AUTHORITY**



**1<sup>ST</sup> PETITIONER  
2<sup>ND</sup> PETITIONER  
3<sup>RD</sup> PETITIONER  
4<sup>TH</sup> PETITIONER  
5<sup>TH</sup> PETITIONER  
6<sup>TH</sup> PETITIONER**

**AND**

**POST NEWSPAPERS LIMITED  
INVESTRUST BANK ZAMBIA PLC  
FRED M'MEMBE  
LAW ASSOCIATION OF ZAMBIA**

**1<sup>ST</sup> RESPONDENT  
2<sup>ND</sup> RESPONDENT  
INTERESTED PARTY  
INTENDING INTERVENER**

*Delivered in Chambers before the Hon. Mr. Justice Sunday B. Nkonde, SC at Lusaka  
this 4<sup>th</sup> day of May, 2017.*

*For the 1<sup>st</sup> to 5<sup>th</sup> Petitioners : Mr. B. Mosho of Messrs Mosho and Company*

*For the 6<sup>th</sup> Petitioner : N/A*

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

*For the 2<sup>nd</sup> Respondent : N/A*

*For the Interested Party : N/A*

*For the Intending Intervener : Mr. P. Chungu and Mr. K. Mwondela*

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## R U L I N G

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### CASES REFERRED TO:

- 1) *Abel Mulenga and Others v Chikumbi and Others* (2006) Z. R. 33
- 2) *Attorney-General, Movement for Multi-Party Democracy v Akashambatwa Mbikusita Lewanika and Others* (1994) Z. R. 164
- 3) *Mike Hamusonde v Obote Kasongo, Zambia State Insurance* (2006) Z.R. 101
- 4) *R. v Inland Revenue Commissioner Ex-parte National Federation of Self-Employed & Small Businesses Limited* (1982) A. C. 617
- 5) *Settlement Corporation v Hochchild (No.2)* (1970) 1 ALL ER. 60
- 6) *Re Vandernell* (1971) A. C. 912
- 7) *Allen v Sir Alfred McAlpine & Sons Limited* (1968) 2 Q.B. 299
- 8) *Trusted Society of Human Rights Alliance v Mumo Mutemu & 5 Others* Petition No. 12 of 2013.
- 9) *Prof. Onyango & 8 Others Civil Application No. 2 of 2016* (2016) UGSC 2 (14<sup>th</sup> March, 2016).
- 10) *Kruger v Commonwealth* (1996) 3 Peg Ref 14

### LEGISLATION REFERRED TO:

- 1) *High Court Rules, Chapter 27 of the Laws of Zambia.*
- 2) *Supreme Court Practice Rules 1999 U.K. (White Book)*
- 3) *Law Association of Zambia, Chapter 31 of the Laws of Zambia*

### OTHER WORKS REFERRED TO:

- 1) *Garner, Black's Law Dictionary, Eighth Edition.*

This is a Ruling on an application by the Law Association of Zambia (LAZ) to be joined as a party to the proceedings as *Amicus Curiae* (Latin word for "Friend of

the Court"). It was made by Summons pursuant to **Order X1V Rule 5(1)** of the **High Court Rules** as read together with **Order 15** of the **Supreme Court Practice Rules** with a Supporting Affidavit sworn by one LINDA CHISHIMBA KASONDE, its President. Both documents were filed into Court on 14<sup>th</sup> March, 2017.

For convenience, the parties will be referred to in this Ruling as they were described or cited on the Summons taken out by LAZ.

It was deponed that LAZ is a Statutory body created by **Chapter 31** of the **Laws of Zambia** whose objectives are set out in the said **Act** and further that in keeping with its objectives, LAZ has been consistent in its defence of the Judiciary and of Judicial independence in the Republic of Zambia.

According to the deponent, this cause had generated significant media attention and interest in the general public which became of concern to LAZ and, thus, LAZ convened a special Council meeting on 20<sup>th</sup> February, 2017 at which it was resolved to investigate the matter further and act upon in the interest of justice.

It was further deponed that the position of the LAZ Council was if the investigations suggested that it was needful, LAZ would apply to intervene in the matter as *Amicus Curiae* with a view to discharging its statutory functions and objectives provided in **Section 4** of the **Act**. Consequently, a search was conducted on the Court file on 6<sup>th</sup> March, 2017 which disclosed that a Notice to raise a Preliminary Issue and Affidavit in Support had been filed 'by the Respondents' on 21<sup>st</sup> February, 2017. According to the deponent, the Affidavit in Support confirmed the same serious matters touching on the independence and



objectivity of the Presiding Judge Honourable Mr. Justice Sunday B. Nkonde, SC (the Judge) which would affect the proper administration of justice and would likely affect the public perception of and confidence in the Judiciary as a whole. The deponent went on to state that LAZ is a major stakeholder in the administration of justice and as such was a bonafide interested party and had sufficient interest in the substantial hearing and determination of this cause.

It was lastly deponed that if LAZ was joined as *Amicus Curiae*, the Court will be assisted greatly though LAZ's submissions and justice will not only be done but will be seen to be done while the Petitioners and the Respondents would not be prejudiced in any way by the non-joinder. A copy of the undated Press Statement issued by LAZ on various issues was exhibited to the Affidavit in Support.

In the Skeleton Arguments filed into Court with the Summons, LAZ – by its Learned Counsel - reproduced **Order XIV, Rule 5 (1)** of the **High Court Rules** and **Order 15, Rule (6)** of the **Supreme Court Practice Rules** relied on.

**Order XIV, Rule 5(1)** provides, in part-

*“ (1) If it shall appear to the Court or a Judge, at or before the hearing of a suit, that all persons who may be joined to, or claim some share or interest in, the subject-matter of the suit, or who may be likely affected by the result, have not been made parties, the Court or a Judge may adjourn the hearing of the suit to a future date, to be fixed by the Court or a Judge, and direct that such persons shall be made either Plaintiffs or Defendants in the suit as the case may be.*



**Order 15, Rule 6(2)** of the **Supreme Court Practice Rules** provides-

*“ (2) Subject to the provisions of this rule, at any state of the proceedings in any cause or matter the Court may on such terms as it thinks just and either of its own motion or on application –*

*(a) ...*

*(b) order any of the following persons to be added as a party,*

*Namely-*

*(i) ...*

*(ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court it would be just and convenient to determine as between him and that party as well as between the parties to the cause or matter.”*

Further, LAZ emphasized that the application for joinder was only in respect of the interlocutory proceedings for the recusal of the Judge which have been brought at the instance of the Respondents and the Interested Party in this action as LAZ is empowered, in terms of the provisions of the **Act** to, inter alia –

*(i) Further the development of law as an instrument of social order and social Justice and as an essential element in the growth of society;*

*(ii) Promote the improvement and reform of the judicial and administrative systems, including tribunals and their procedure;*

- (iii) *Seek the advancement of the rule of law and of the rights and liberties of the individual.*

On the legal requirement for non joinder, LAZ contended that in terms of **Order XIV, Rule 5(1)** of the **High Court Rules**, any person can be added to proceedings if they can show any one of the following –

- (i) *That they have some share in the subject matter of the suit;*
- (ii) *That they have an interest in the subject matter of the suit; or*
- (iii) *That are likely to be affected by the result of the suit.*

Thus, from the above, LAZ contended that it had a sufficient interest in the subject matter of the application for the recusal of the Judge as the objectives of LAZ to further the development of the law, seek the advancement the rule of law and promote the improvement of the judicial system/s in the country coincide as sufficient interest in this cause. *Zambian* cases were cited for this proposition. LAZ cited the case of **Abel Mulenga and others v. Chikumbi and Others**<sup>1</sup> in which it was decided that

*“... in order for a party to be joined to an action, the party ought to show that they have an interest in the subject matter of the action.”*

Also, the case of **Attorney-General, Movement for Multi-Party Democracy v. Akashambatwa Mbikusita Lewanika and others**<sup>2</sup> and **Mike Hamusonde Mweemba v. Obote Kasongo, Zambia State Insurance**<sup>3</sup> in which it was held that:

*“ A Court can order a joinder if it appears to the Court or Judge that all persons who may be entitled to or claim some share or interest*

*in the subject matter of suit or who may be likely to be affected by the result require to be joined.”*

LAZ also sought to bring to the attention of the Court how English Courts have approached the issue of joinder by contending that the English position on the issue of joinder has been much the same as Zambian precedents. English Courts have applied **Order 15, Rule 16, RSC** so as to test any applicant for “sufficient interest”. Thus, the Learned Authors of the **Supreme Court Practice Rules**, have noted that an applicant would have to show sufficient connection to support participation in the case and that this position was well stated in **R v. Inland Revenue Commissioners, Ex-parte National Federation of Self Employed & Small Businesses Limited**.<sup>4</sup>

The Court was referred to Paragraph 15/6/2 of the **Supreme Court Practice Rules**, which specifically states that –

*“The rule ... deals with ... the power of the Court to strike out, add or Substitute parties, and **with the power of intervention by persons not Parties** ....*

The argument made by LAZ in relation to the above rule was that the rule permits for non parties to be joined to proceedings as Intervening parties albeit the decision to join an applicant is one purely at the Courts discretion although the discretion ought to be exercised judiciously with the purpose that the Court ought to do justice in the circumstances. Further that in **Settlement Corporation v.**



**Hochschild (No. 2),**<sup>5</sup> the House of Lords applied a wide interpretation of the rule pertaining the joinder of a party to proceedings. This wide interpretation was extended even further in **Re Vandevell.**<sup>6</sup> It was argued that the predisposition of the Courts has been to be permissive to applications for joinder rather than restrictive.

To LAZ, the Notice which was filed to raise the preliminary issue as to the Judge's suitability to continue to act in these proceedings and the supporting Affidavit made a wide range of serious allegations. The supporting affidavit alleged bias on the part of the Judge and suggested that the Judge has an interest to serve which is detrimental to the rights of the Respondents. The allegations impugned the independence of the Judge and have the potential of bringing the independence and integrity of the Judiciary into serious questions. According to LAZ, these issues have important and overreaching public interest implications and thus LAZ seeking to be permitted to participate in these proceedings as *Amicus* on that account.

LAZ concluded its arguments by emphasizing that it was seeking to be joined as *Amicus Curae* so that it could render a balanced and unbiased brief for both sides of the argument and in that regard assist in the decision of the Court on the matter in a manner that would protect the important integrity of the Court and the judicial system in general.

On 4<sup>th</sup> March, 2017, the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Petitioners (the Petitioners) filed a lengthy opposing Affidavit which was sworn by the 5<sup>th</sup> Petitioner. It was deponed

that LAZ is neither a creditor, debtor, member nor shareholder of the Post Newspaper Limited (in Liquidation) to have interest whatsoever in the winding up proceedings and any such entitlement to or claim its interest in the subject matter of the proceedings had not been demonstrated by LAZ.

It was further deponed that the Affidavit sworn by one Fred M'membe, the Interested Party herein, which LAZ sought to rely on in its application for non-joinder was a subject of dispute by the Petitioners on the grounds of "authentication."

According to the deponent, LAZ had skillfully remained quiet and not defended the Judge on publications by the Mast Newspaper owned by Mrs. Mutinta Mazoka M'membe, wife to the Interested Party, which has repeatedly been attacking the Judge asking him to recuse himself in handling the winding up proceedings unlike LAZ's defence of other Judges that have faced public attack.

It was also deponed that LAZ had failed to produce as exhibits Minutes of a Special Council Meeting which it convened to investigate the matter and this was indicative that there was no such official Council meeting convened but it was the deponent, Ms. Kasonde who decided that LAZ should join in the interest of the Interested Party and not in the interest of LAZ.

The deponent went further to state that although Ms. Kasonde in the Affidavit alleged that the Respondents had raised a preliminary issue filed on 21<sup>st</sup> February, 2017 which LAZ was relying on in its non-joinder application, this was misleading as the Respondents had not filed any such application but the preliminary



application being relied on by LAZ was filed by the Interested Party who, according to the deponent, was not a party to these proceedings.

It was also deponed on behalf of the Petitioners that although Ms. Kasonde purports that the Judge would not be independent and objective, no evidence or proof had been provided and LAZ's Affidavit was, thus, contemptuous and meant to demean and undermine the dispensation of justice in this matter. Similarly, the assertion in the Affidavit in Support that the public's perception and confidence in the Judiciary as a whole would be affected did not demonstrate or provide proof of how the public's perception and confidence in the Judiciary would be affected.

In relation to the assertion that non-joinder of LAZ would not prejudice the Petitioners and the Respondents, it was deponed that the opposite was true in that the issues raised by the Interested Party and being relied on by LAZ without the said Interested Party being a party to these proceedings are prejudicial and embarrassing to the parties to the Petition as well as the Court.

The deponent also stated that LAZ recently appointed Messrs Mwenye & Mwitwa Advocates to represent Learned State Counsel Mr. Nchima Nchito in a criminal case when the said Mr. Nchito, SC is a Partner in Messrs Nchito and Nchito, a Law firm which filed the pending application for recusal of the Judge and to the Petitioner this was indicative of how subjective LAZ had conducted itself contrary to its objectives.

Lastly, it was deponed that LAZ's mandate did not extend to interfere or collude in purely private commercial matters as is in these proceedings as such matters have no public interest stimulation. It was, therefore, deponed that the



application by LAZ for non-joinder was frivolous, vexatious and lacked merit and was intended to disrupt the smooth flow of the winding up process before this Court.

In the Skeleton Arguments, the Petitioners by their Learned Counsel also countered LAZ's Skeleton Arguments by arguing first that the reason for which the joinder application had been made by LAZ did not disclose any interest on the part of LAZ in the suit or Petition, citing the same **Order XIV Rule 5 (1)** of the **High Court Rules** referred to by LAZ as requiring the disclosure of such interest. The Petitioners emphasized that in order for a person to join or apply for joinder he must have an interest in the subject matter of the suit or he may be likely to be affected by the result of that suit. In the present case, the suit was the Petition itself or the Winding-up proceedings and not an interlocutory issue raised by a non-party to the proceedings. Therefore, according to the Petitioners, no application for Joinder under **Order XIV Rule 5 (1)** of the **High Court Rules** can lie for LAZ, under as such LAZ's application for Joinder was not only wrong but irregular and improperly before this Court.

It was, further, argued that LAZ not being a creditor, debtor, member or shareholder of the Post Newspapers Limited (In Liquidation) had no interest to share in and will not be affected by the result of the Petition or the suit itself and no Joinder application may therefore lie on these facts.

The second counter argument by the Petitioners was that LAZ's application for joinder was based on facts disclosed in an interlocutory matter brought about by a person who was not a party to the Petition. According to the Petitioners, The Interested Party had styled himself as "Interested Party" without any Order of

Court admitting him to the Petition as a party and, therefore, LAZ may not apply for joinder on the basis of documents filed into Court by a person who was not a party to the proceedings.

On the mandate or jurisdiction of LAZ viz-a-viz the proceedings, the Petitioners argued that the mandate of LAZ as provided under **Section 4** of the **Act** do not in any way extend to purely private commercial matters and in particular to the Liquidation of the Post Newspapers Limited (In Liquidation) proceedings. That in short, LAZ did not have jurisdiction whatsoever to join any proceedings which are purely private commercial matters.

On the basis of the foregoing arguments, the Petitioners submitted that the application by LAZ to be joined as a party to these proceedings as *Amicus Curiae* was frivolous, vexatious and lacked merit and prayed that the application by LAZ be dismissed.

Other parties filed and said nothing with respect to the application.

At this moment, I find it necessary to make it clear that no determination has been made on whether the Interested Party is a party to the Petition but I will proceed only on the assumption that he is.

From the foregoing, there is no controversy between the contesting parties to the application that allowing joinder of a non party to proceedings as *Amicus Curiae* is entirely at the discretion of the Court.

The question whether *Amicus* can be joined to a private commercial suit is also answered in the affirmative.

The sole question, therefore, that in my view that is paramount and falls for determination is whether I should use my discretion and allow LAZ to join the proceedings as *Amicus Curiae*.

The Learned Authors of **Black's Law Dictionary, Eighteenth Edition at Page 93** define *Amicus Curiae* as

*" A person who is not a party to a lawsuit but who petitions the Court or is requested by the Court to file a brief to the action because that person has a strong interest in the subject matter."*

The role of an *Amicus Curiae* is as stated by **Salmon L J** (as Lord Salmon then was) in **Allen v Sir Alfred McAlpine & Sons Limited at page 266,**<sup>7</sup> as follows:

*" I have always understood that the role of an Amicus Curiae was to help the Court by expounding the law impartially, or If one of the parties were unrepresented, by advancing the legal arguments on its behalf."*

In the Zambian jurisdiction, there are no Constitutional or Statutory provisions on *Amicus Curiae*. It is common law that is applied. But Zambia is not "an Island" and a Court in Zambia cannot shy away from looking at how Courts in other jurisdictions have handled the requirement or question of, for instance, impartiality of *Amicus Curiae*.

The requirement or question of impartiality of the applicant has been a subject of judicial examination in other jurisdictions. For instance, in Kenya which is an



emerging democracy such as Zambia, the Supreme Court in the case of **Trusted Society of Human Rights Alliance and Mumo Mutemu & Others and Katiba Institute**<sup>8</sup> as intended *Amicus Curiae* at paragraph 47 said the following:

*“ Impartiality is a central tenet in the conduct of judicial proceedings. As Counselors before the Court, an Amicus Curiae should not exhibit partiality towards any party’s cause, otherwise some party would be prejudiced. Given the role of Amicus Curiae as a friend of the Court, impartiality is required of an Amicus Curiae. The role of an Amicus Curiae is to aid the Court so that it may reach a legal, pragmatic and legitimate decision, anchored on the tenets of judicial duty. In an adversary legal system such as ours, impartiality on the part of the Court, and all its agencies such as Amici must withdraw all compromise.... An Amicus Curiae has to stay aloof, assisting the Court, without being seen to take sides.”*

Further at Paragraph 48, the Supreme Court of Kenya went on to state that:

*“ When determining whether Amici is partisan, the test should be that of the ordinary litigant, rather than of a legal expert examining the dichotomy between factual matter and legal matter.”*

In Uganda, as an illustration, in the *Amici* application by **Professor Onyango & 8 Others in the Petition of Amama Mbabazi v Yoweri Museveni & 2 Others**, the **Supreme Court of Uganda**<sup>9</sup> in rejecting the application of the Civil Society Organizations to join as *Amici* stated, inter alia, that the Court had noted that having already issued out their reports regarding the conduct of the elections or election observers, allowing the Civil Society Organizations to be joined to the Petition as *Amicus Curiae* would be prejudicial.

But it does not end here. Admittedly, and as contended by LAZ, there has been a growing trend towards the Courts being permissive rather than restrictive in applications for joinder by giving a wide interpretation to “sufficient interest”. This has been so in developed democracies or jurisdictions with advanced constitutions and generally in human rights cases. In human rights cases, it has indeed been necessary so as to give full effect to the enjoyment of the fundamental rights and freedoms.

This has led to the relaxation of impartiality as a requirement to be admitted as *Amicus Curiae*.

Despite this growing trend, it did not stop Chief Justice Gerard Brennan in the Australian case of **Kruger v Commonwealth**<sup>10</sup> to sound a word of caution on admission of *Amicus Curiae* when he plainly said:

***“ As to (his) application to be heard as Amicus Curiae, he fails to Show that the parties whose case he would support are unable or unwilling to adequately protect their own interests or assist the Court in arriving at the correct determination of the case.***

***The Court must be cautious in considering applications to be heard by persons who would be Amicus Curiae lest the efficient operation of the Court would be prejudiced. Where the Court has parties before it who are willing to provide adequate assistance to the Court it is inappropriate to grant the application.”***

Coming to the present case, indeed LAZ acknowledged or recognized the need for impartiality when it submitted at page 4 of the Skeleton Arguments, inter alia, that

*“ The Law Association of Zambia seeks to be joined as Amicus Curiae so that it can render a balanced and unbiased brief for both sides of the argument.”*

I make the inference that it was on the tenet of impartiality that LAZ made the application to join as *Amicus Curiae*.

But do the facts and circumstances show a posture of impartiality and disinterestedness on the part of LAZ? I do not think so, and for the following reasons.

First, as submitted by Learned Counsel for the Petitioners, LAZ is the entity that has appointed Lawyers for Mr. Nchito, SC in Criminal Proceedings in the Subordinate Court. I also take Judicial notice of the fact that the Criminal Proceedings touch or emanate from the current winding up proceedings in this Court. Mr. Nchito, SC is also one of the Lawyers, and Partner, in the firm of



Messrs Nchito & Nchito representing the Interested Party in the application for recusal of the Judge. Messrs Nchito & Nchito is also the same firm of Lawyers that filed the Notice of Intention to be heard in opposition to the winding up of the Post Newspaper Limited in these proceedings.

Secondly, LAZ proceeded to argue the *Amicus* application relying on the supporting affidavit of the Interested Party as showing "serious matters" against the Judge when LAZ knew or ought to have known at that time that there was yet undetermined by the Court the objection on record by the Petitioners as to the authenticity of the Interested Party's affidavit in support of the recusal application. In essence, the objection being that the supporting affidavit was allegedly sworn by the Interested Party before a Commissioner for Oaths in Zambia on a date when the Interested Party was allegedly not in Zambia. LAZ further glossed over this and the fact that the said objectionable affidavit in support was filed by Messrs Nchito & Nchito who are the Advocates for the Interested Party.

The above taken into account, in my view, any informed ordinary litigant would come to the inevitable conclusion LAZ has taken a stand in relation to the proceedings or matters herein which is in consonant with that of the Interested Party, contrary to LAZ's attempt to portraying itself as applying to join so that it gives a neutral brief in relation to the recusal application.

There are other reasons that make me reluctant to admit LAZ as *Amicus* in the circumstances of this case. It ought to be stressed that this is a Court of first instance in these proceedings. Before the Court as the record shows, is a Law firm of Messrs Nchito & Nchito representing the Interested Party. It is well known

that Messrs Nchito & Nchito has two Learned State Counsels with many years of experience at the bar between them, in comparison – with due respect – to the Lawyers for the Petitioners and LAZ but who are equally very competent. The Court has, therefore, no doubt that the Lawyers for the parties before it are very capable of providing the necessary expertise and assistance to the proceedings including on the recusal application. In any case, I do not read the application by LAZ as alleging or asserting that the Lawyers for the parties are or may not be capable of providing such adequate assistance to the Court so as to enable the Court arrive at a legal, pragmatic and legitimate decision on the recusal application.

Further, in my view, allowing LAZ to join as *Amicus* may only delay the disposal of these proceedings to the prejudice of the parties given the virulent response by the Petitioners to LAZ's application as shown in the opposing affidavit. The Court Rules and these proceedings by their nature require the disposal of the matter expeditiously – whether before me or another Puisne Judge.

That said, I must make two comments before concluding. The first is that I find the context of the response in the affidavit in opposition as at times very personal and very unnecessary. The second is that LAZ must at all times endeavour to let its members engage in adversarial advocacy independently. Further, LAZ needs no reminder that it should be in the forefront of educating the public that Courts have mechanisms established over a long period of time for correcting errors, imperfections, and misapplication of the law in proceedings or matters through Laws and Rules allowing for applications, appeals, etc by aggrieved parties. These mechanisms if undermined quickly eat at the very fabric of the Rule of Law as an

important component of a democratic society. The inevitable consequence is that only anarchy wins.

My comment, however, should not be construed as discouraging LAZ to totally keep away from applying to join as *Amicus Curiae* in the quest to legitimately exert its statutory mandate. To the contrary, LAZ must be encouraged to apply to join as **Amicus**, especially in human rights litigation involving or affecting the vulnerable and marginalized persons in our society, with the same zeal as LAZ has exhibited in this commercial case.

In conclusion, from all that has been outlined above in relation to the application by LAZ to join the proceedings as *Amicus Curiae*, I am left convinced that LAZ's application lacks merit to be allowed and is hereby dismissed. However, in exercise of my discretion, I make no order as to costs.

Dated at Lusaka this 4<sup>th</sup> day of May, 2017.



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MR. JUSTICE SUNDAY B. NKONDE, SC  
HIGH COURT JUDGE