

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)**

2021/HP/121

**KAINDU NATURAL RESOURCES TRUST
DENWELL CHIBUNDA
JEY KABALUKILA
FRAZER CHILIMBOYI
COSTER MUSHINA
GEHAS KAYOMBO CHIWALA
VICTOR NYAMBE SIMASIKU
GIDEON MWEPU
PETER KANYEMBE
DIVAISON MBANGE**

**1ST PLAINTIFF
2ND PLAINTIFF
3RD PLAINTIFF
4TH PLAINTIFF
5TH PLAINTIFF
6TH PLAINTIFF
7TH PLAINTIFF
8TH PLAINTIFF
9TH PLAINTIFF
10TH PLAINTIFF**

AND

**AARON MULAMFU
PATSON CHIFUPA
GRACIOUS HAMALAMBO
JOHN CHIMALILO
BONIFACE CHISOSHI
HUMPHREY KABINDA
MWAMBA CHITI
ISAAC KALUSA
MATTHEWS KAPESHI**

**1ST DEFENDANT
2ND DEFENDANT
3RD DEFENDANT
4TH DEFENDANT
5TH DEFENDANT
6TH DEFENDANT
7TH DEFENDANT
8TH DEFENDANT
9TH DEFENDANT**



Before:

The Hon. Mr. Justice Charles Zulu

For the Plaintiffs:

Mr. H. P. Hantumbu, Messrs Muleza
Mwiimbu & Company.

For the 1st, 4th, 5th, 6th
7th & 9th Defendants:

Mr. A. Kombe & Mrs. P. Liatumba, of
Messrs Andrew & Partners

The 2nd & 8th
Defendants:

No appearance

For the 1st Intervenor:

Mr. L. Mutale of Messrs Musa Dudhia &
Company.

For the 2nd Intervenor:

No Appearance.

R U L I N G

Cases referred to:

1. ***Nyampala Safaris & Others v Zambia Wildlife Authority & Others (SCZ/A/179/2003***
2. ***Watson Nkandu Bowa v Fred Mubiana & Another (2012) Vol. 3 165.***
3. ***Zambia Revenue Authority v Post Newspaper (SCZ Judgment No. 18 of 2016).***

Legislation referred to:

1. ***High Court Rules Chapter 27 of the Laws of Zambia.***
2. ***Court of Appeal Rules of 2016.***
3. ***Rules of the Supreme Court of England and Wales 1965 (White Book 1999 Edition).***

1.0 INTRODUCTION

- 1.1 This ruling is in respect of an application by the Plaintiffs for stay of execution of the judgment pending appeal to the Court of Appeal. The application was made pursuant to Order III rule 2 of the ***High Court Rules Chapter 27 of the Laws of Zambia*** read with Order X of the ***Court of Appeal Rules of 2016*** and paragraph 59/13/2 of the ***White Book 1999 Edition***.

2.0 BACKGROUND

- 2.1 The Plaintiffs, in particular the second to the tenth Plaintiffs took out this action by way of writ of summons and statement of claim dated February 9, 2021, challenging the election of the Defendants as trustees of the Kaindu Natural Resources Trust (KNRT).

2.2 The Defendants in their defence, alleged that they were validly elected as Trustees, and sought a declaration to that effect in their counter-claim.

2.3 The case was heard and determined in favour of the Defendants. and in my judgment dated August 5, 2025, I adjudged as follows:

12.1 ***In the light of the foregoing, I dismiss the Plaintiffs' case, and hold that the Trustees of the KNRT validly elected at the election held on January 22 to 23, 2021, are: Boniface Chisoshi, Chairman, Jackson Chiyema, Vice Chairman; Humphrey Kabinda, Secretary; John Chimailo, Vice Secretary; Mathews Kapeshi, Treasurer; Mwamba Chiti, Trustee; Isaac Kalusa, Trustee; Winnard Chabfimbi, Trustee; and Mweemba Hamalambo, Trustee.***

12.2 The registration of KNRT as a society under the Societies Act is hereby declared null and void. And the Registrar is directed to deregister KNRT as a society.

12.3 Furthermore, it is hereby directed that the records at the Ministry of Lands and Natural Resources be rectified in accordance with the declaration herein to reflect the valid and bona fide Trustees of the KNRT, declared to have assumed office since January 2021.

2.4 It is the above said decision that the second to tenth Plaintiffs now seek to assail in the Court of Appeal based on the memorandum of appeal filed on August 21, 2025.

3.0 THE PARTIES' AFFIDAVT EVIDENCE

3.1 An affidavit in support was deposed to by Fraser Chilimboyi, the fourth Plaintiff. The essence of his application is that, the

Plaintiffs were dissatisfied with the whole judgment of the Court and had appealed to the Court of Appeal. He added that the appeal disclosed serious questions of law and fact with high prospects of success

3.2 According to him, unless a stay is granted, the Defendants would continue to act as Trustees of the KNRT and make far reaching decisions affecting land rights, natural resources and third-party dealings.

3.3 An affidavit in opposition was deposed to by Brenda Muke. She stated that she was the current Chairperson of the KNRT; having assumed office on June 22, 2024. She noted that following the dismissal of an injunction by the Plaintiff, the Defendants continued in office as Trustees until their tenure of office came to an end on June 15, 2024.

3.4 She added that in the light of the status quo the present application for stay of execution has been overtaken by events following the new executive of trustees appointed in June 2024.

4.0 THE PARTIES' ARGUMENTS

4.1 The parties filed their respective arguments for and against the application. However, I will not labor to reproduce the same seriatim, suffice to state that, where necessary, I will refer to the same in my determination.

5.0 DETERMINATION

5.1 I have carefully considered the application. The criteria to be considered for grant of stay of execution was ably outlined in the case of **Nyampala Safaris & Others v Zambia Wildlife**

Authority & Others¹ also cited by the parties, wherein the Supreme Court held:

5.1.1 ***A stay of execution is only granted on good and convincing reasons. The rationale for this is clear, which is that a successful litigant should not be deprived of the fruit of litigation as a matter of course. The application for stay of execution must therefore clearly demonstrate the basis on which such stay should be granted.***

5.2 Further, in **Watson Nkandu Bowa v Fred Mubiana & Another**² it was held:

5.2.1 ***In an application for stay of execution pending appeal, the considerations are: the prospect of the appeal succeeding and the irreparable damage if a stay is not granted and the Appellant's appeal succeeds.***

5.3 The above stated authorities speak to situations in which an enforcement of a judgment or order can be stayed.

5.4 In addition to the foregoing, it is comparably imperative to have regard to the case of **Zambia Revenue Authority v Post Newspaper**³ wherein the Supreme Court stated:

5.4.1 ***Where a Judgment or Ruling refuses Judicial Review or an Injunction, there is nothing to stay; because such a Judgment or Ruling does not award a remedy, such as money or property which can be obtained by court execution. In short, a failed Judgment or Ruling cannot be stayed because it did not award anything. If there is nothing to execute about such a Judgment or Ruling, then there is nothing to stay about it.***


5.5 It is important to note that in the present case, the judgment validated the election of the Defendants who took office in

January 2021. The Defendants are reported to have vacated office in June 2024, when their tenure of office came to an end. Therefore, the order sought herein to stay execution of the judgment is rendered redundant, especially that the status quo has since changed even before the judgment was rendered on August 5, 2025.

6.0 CONCLUSION

- 6.1 In light of the foregoing, the application for stay is without merit and is hereby dismissed.
- 6.2 I make no order as to costs.

DATED THE 23RD DAY OF SEPTEMBER, 2025



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THE HON. MR. JUSTICE CHARLES ZULU