

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

2024/HP/0814



BETWEEN:

IDRIS AHMED ESSA**PLAINTIFF**

AND

**MUKAMBI SAFARI LODGE
COMMISSIONER OF LANDS
ATTORNEY GENERAL**

**1st DEFENDANT
2nd DEFENDANT
3rd DEFENDANT**

**BEFORE HON MRS JUSTICE S. KAUNDA NEWA IN CHAMBERS THIS 8th DAY
OF SEPTEMBER, 2025**

For the Plaintiff : Mrs B Kearns, Messrs Jane Bulaya and Partners
and Mr S. Bwalya Jr, Messrs Solly Patel Hamir &
Lawrence
For the 1st Defendant : Mr E.K Mwitwa and Mr C. Kamelu, Messrs
Mwenye & Mwitwa Advocates
For 2nd and 3rd Defendants : No appearance

R U L I N G

CASES REFERRED TO:

1. *American Cyanamid v Ethicon Limited 1975 1 ALL ER 504*
2. *Gideon Mundanda v Mulwani and others 1987 ZR 29*
3. *Attorney General and the Speaker v The People 1999 ZR 186*
4. *Tawela Akapelwa, Steven Nawa Matongo and Simasiku Siyunda v Josiah Mubukwanu Litiya Nyumbu Appeal No 004 of 2015*
5. *Euro Africa Kalengwa Mines Limited & six others v Euro Africa Mining Limited CAZ/242/2020*

LEGISLATION REFERRED TO:

1. *The High Court Act, Chapter 27 of the Laws of Zambia*

OTHER WORKS REFERRED TO:

1. *Black's Law Dictionary, 11th Edition*

1. INTRODUCTION

- 1.1 Idris Ahmed Essa, the Plaintiff herein, on 2nd April, 2025 applied for an Order of interim injunction, pursuant to **Order 27 Rule 1** and **Order 3 Rule 2 of the High Court Rules** as read with **Section 13 of the High Court Act Chapter 27 of the Laws of Zambia**.
- 1.2 The application was amended on 10th June, 2025, and an Order is sought to restrain Mukambi Safari Lodge whether by itself, its' servants, its' agents and/or representatives or otherwise whomsoever, from entering upon for purposes of subdividing and/or developing and/or altering and/or selling and/or proceeding with the selling and/or transferring and/or mortgaging or pledging or otherwise howsoever dealing in any way, with the subject and/or any portion of Farm No Mumbw/1368308 situated in Central Province of the Republic of Zambia, based on the facts contained in the affidavit filed herewith, until further Order of the Court.
- 1.3 The application was supported by an affidavit and a List of Authorities and Skeleton Arguments in support.
- 1.4 An affidavit in opposition and a List of Authorities and Skeleton Arguments in opposition were filed on 24th April 2025, and a further affidavit in opposition was filed on 27th June, 2025.
- 1.5 An affidavit in reply was filed on 25th April, 2025.

2. BACKGROUND

2.1 Idris Ahmed Essa, commenced this action on 10th June, 2024, by Writ of Summons which is accompanied by a statement of claim and the other requisite documents, in which he seeks:

- i. *An Order that the Consent Order dated 23rd November, 2023 under cause number 2020/HP/0279 was entered into by mistake and misrepresentation of the facts as Idris Ahmed Essa being the 3rd Respondent in the original action did not consent or have knowledge of the consent Order and was never given an opportunity to be heard before the Consent Order was granted nor did he sign as a party to the matter who is likely to be affected by the said Consent Order;*
- ii. *An Order setting aside the Consent Order dated 23rd November, 2023 under cause number 2020/HP/0279 on the basis that the signed Consent Order that cancelled entry number No 4 and reinstated entries No 1 and 2 of the Lands Register relating to Certificate No 20248 of Farm No Mumbw/ 1386308 was done contrary to the provisions of the law on correcting of omissions and errors in the Lands Register;*
- iii. *An Order to reinstate entry No 4 and cancel entries No 1 and 2 in the Lands Register made through the Consent Order dated 23rd November, 2023 to which Idris Ahmed Essa was not a part of, which act is illegal;*

- iv. An Order directing the Commissioner of Lands to accordingly reverse the reinstatement of the entries No 1 and 2 of the Lands Register relating to certificate of title No 20248;*
- v. General and punitive damages against Mukambi Safari Lodge for intentionally misleading the Court and for their illegal actions on Idris Ahmed Essa's land which has caused him loss;*
- vi. Special damages in excess of K2, 500, 000.00 occasioned to Idris Ahmed Essa arising from Mukambi Safari Lodge by not allowing Idris Ahmed Essa to commence construction on the land for eight years, causing financial, mental and physical stress on Idris Ahmed Essa;*
- vii. An Order for the demolition of all structures illegally constructed on Idris Ahmed Essa's land;*
- viii. Any further relief that the Court may deem fit;*
- ix. Legal Costs of the proceedings;*
- x. Interest on the amounts found due.*

2.2 Mukambi Safari Lodge entered appearance and filed its' defence and the other documents on 12th July, 2024. Thereafter, Orders for Directions were issued on 21st August, 2024.

2.3 The Commissioner of Lands and the Attorney General entered their appearance and filed their defence and the other documents on 28th August, 2024.

- 2.4 A reply to Mukambi Safari Lodges defence was filed on 2nd October, 2024, while a reply to the Commissioner of Lands and the Attorney General's defence was filed on 2nd October, 2024.
- 2.5 Then thereafter, the application for an Order of injunction which is the subject of this Ruling was filed.

3. SUBMISSIONS AT THE HEARING

SUBMISSIONS BY COUNSEL FOR IDRIS AHMED ESSA

- 3.1 It was Counsel's submission, that in applying for an Order of injunction, what Idris Ahmed Essa sought, was not an Order for possession of the disputed property, but preservation against potential or irreversible loss.
- 3.2 Reliance was placed on the amended affidavit and the List of Authorities and Skeleton Arguments which were filed on 2nd April, 2025. Counsel also stated that they relied on the affidavit in reply and the List of Authorities and Skeleton Arguments in reply which were dated 25th April, 2025, as well as the affidavit in reply to the further affidavit in opposition.
- 3.3 Counsel further in submission, stated that all the requirements for the grant of the Order of injunction, had been met, as set out in the seminal case of ***American Cyanamid v Ethicon Limited*** ⁽¹⁾. He added that the principles as set out in that case, had been adopted by the Supreme Court in many cases, including the case of ***Tawela Akapelwa, Steven Nawa Matongo and Simasiku Siyunda v Josiah Mubukwanu Litiya Nyumbu*** ⁽⁴⁾.

- 3.4 Therefore, as regards the first question that is considered when granting Orders of injunction, Counsel submitted that they had shown that the Consent Order which was sought to be set aside, which was executed in cause number 2020/HP/0279, was not signed by Idris Ahmed Essa, despite the fact that he was joined to the proceedings in that matter, on the basis that he had demonstrated that he had sufficient interest in the matter.
- 3.5 It was also submitted that more importantly, Idris Ahmed Essa had shown that he was likely to be affected by the outcome of that cause.
- 3.6 Still in submission, Counsel stated that it is trite that a Consent Order or Judgment should only be endorsed by the Court after the execution and participation, as well as the involvement of all the parties to a cause.
- 3.7 In that regard, reliance was placed on the case of ***Euro Africa Kalengwa Mines Limited & six others v Euro Africa Mining Limited*** ⁽⁵⁾.
- 3.8 Further submission was made, that the Certificate of Title which was restored by the Consent Order encompassed a substantial portion of the property which was alienated to Idris Ahmed Essa by Chief Kabulwebulwe.
- 3.9 Other submission was made, that Mukambi Safari Lodge had proceeded to have the caveat that Idris Ahmed Essa placed on the property removed, as shown by the affidavit in reply which was dated 4th July, 2025.

- 3.10 Counsel stated that Mukambi Safari Lodge as evidenced by the Certificates of Title, which were exhibited to its' affidavit, had proceeded to subdivide the property, particularly the precise portion that Idris Ahmed Essa had been alienated, in total disregard of his interest in the said land.
- 3.11 On whether Idris Ahmed Essa would suffer irreparable injury, Counsel submitted that the subdivision of the property and the registration of new certificates of title threatened to permanently deprive Idris Ahmed Essa of his interest in the property.
- 3.12 It was stated that it is trite, that land is unique and cannot be adequately compensated, as was held in the case of ***Gideon Mundanda v Mulwani and others*** (2).
- 3.13 On the balance of convenience, Counsel's submission was that it tilted in favour of Idris Ahmed Essa. The submission was that this was not a battle for victory, but a question of fairness. Counsel further stated that Mukambi Safari Lodge had moved decisively to reconfigure the landscape, even before the Court had even heard the main claim.
- 3.14 It was also his submission that, that was precisely why injunctions exist, not to punish, but to pause and protect not only property, but the process.
- 3.15 Counsel added that Idris Ahmed Essa was not asking for any advantage, but for preservation of the status quo, until the voices of the parties in dispute had been fully heard. On that basis, the prayer was that the Order of injunction should be granted.

RESPONSE BY COUNSEL FOR MUKAMBI SAFARI LODGE

- 3.16 Counsel in response, stated that the record showed that Mukambi Safari Lodge vehemently opposed the application by filing two affidavits in opposition, with first being dated 24th April, 2025, and the second 27th June, 2025, which were both deposed to by the Managing Director for Mukambi Safari Lodge.
- 3.17 It was Counsel's submission, that reliance was placed on the said affidavits, as well as the Skeleton Arguments, which were dated 24th April, 2025.
- 3.18 In augmenting, Counsel noted that Counsel for Idris Ahmed Essa had submitted that the application was not a battle for victory, but was about fairness.
- 3.19 The view taken, was that if the Court were to restrict itself to the question of fairness, which it should seriously consider as by its' nature, the application was one that fell within the realm of equity, then the summons as amended on 10th June, 2025, was the starting point.
- 3.20 In that respect, Counsel stated that the said summons indicated that Idris Ahmed Essa sought a very general order. It was submitted that dealing with land in any way was asking the Court to order Mukambi Safari Lodge to stop dealing with the land or portions of it.
- 3.21 The submission was also that the undisputed facts were that, Mukambi Safari Lodge is a title holder of the whole lot of the land, and from which subdivisions had been created.

That Counsel submitted, should weigh heavily in Mukambi Safari Lodge's favour in relation to the application.

- 3.22 Addition was made, that Mukambi Safari Lodge had held title to the property from 1st April, 2016 for land in extent of 208.8091 hectares, as shown on exhibit 'EJVH2' to the affidavit in opposition, which was dated 4th April, 2025. Counsel noted that this was a huge piece of land.
- 3.23 In further submitting, Counsel observed that Idris Ahmed Essa had not produced any document to show that he owned any portion of the 208.8091 hectares which was owned by Mukambi Safari Lodge.
- 3.24 However, Idris Ahmed Essa was asking the Court to Order Mukambi Safari Lodge to stop doing anything on the land that it legally owned.
- 3.25 Continuing in submission, Counsel stated that there was no convincing evidence that Idris Ahmed Essa had a right to a portion of the property, and even when Mukambi Safari Lodge had subdivided the property, Idris Ahmed Essa had not shown in which of the subdivisions his rights had been violated.
- 3.26 Therefore, Counsel contended that Idris Ahmed Essa's assertions were speculative, and were not supported by any evidence.
- 3.27 Note was made, that in the affidavit in reply which was dated 4th July, 2025, Idris Ahmed Essa had stated that he had applied for the land on 10th October, 2015 to Chief Kabulwebulwe in a game management area, as shown on

exhibit 'IS6'. It was Counsel's submission that at that point, Mukambi Safari Lodge had been allocated the land by the Royal Highness, and it took steps to obtain a certificate of title which was issued on 8th April, 2016.

- 3.28 Counsel still in submission, stated that Idris Ahmed Essa had failed to procure a certificate of title to the land that he claimed, that the Chief allocated to him ten (10) years ago.
- 3.29 It was stated that this should work against Idris Ahmed Essa, and the question of fairness should be decided in favour of Mukambi Safari Lodge, who is a title holder to the land, having acquired the same nine (9) years ago, and was granted permission to subdivide the same, as evidenced by exhibits 'EVH2' to 'EVH9' to the further affidavit in opposition, which was filed on 27th June, 2025.
- 3.30 As regards the argument that Mukambi Safari Lodge had been subdividing the property in total disregard of Idris Ahmed Essa's rights or interest in the land, it was submitted that this submission had ignored the fact that there was no order of injunction or indeed any other restriction in law, that prevented Mukambi Safari Lodge from subdividing land that it legally owned.
- 3.31 It was submitted that the only interest that Idris Ahmed Essa had demonstrated in the land, was that Hon Lady Justice C.C Zulu had joined him to the proceedings in cause number 2020/HP/0279 as the 3rd Respondent. However, the same Court went ahead to endorse the Consent Order on 23rd November, 2022, which was signed by the 1st and 3rd

Defendants, after Idris Ahmed Essa had been joined to the proceedings, and which Order was exhibited as 'EJVH1' to the affidavit in opposition, which was dated 24th April, 2025.

3.32 On the summons which were filed in moving the Court on the application, and which asked the Court to order Mukambi Safari Lodge to stop dealing with the land, **Black's Law Dictionary, 11th Edition** was stated as defining dealings as:

“business dealings or relationships that someone is involved in or the ability to do business with people.”

3.33 The Court was urged to consider the business that Mukambi Safari Lodge is involved in, from the affidavits that it had filed.

3.34 In respect of whether there is a serious question to be tried, and the reliance on the case of **Euro Africa Kalengwa Mines Limited & six others v Euro Africa Mining Limited** ⁽⁵⁾ which decided that all the parties should participate in the execution of a Consent Judgment, Counsel submitted that the said case was distinguishable from this case, as in cause number 2020/HP/0279, Mukambi Safari Lodge was the Applicant in the matter, and it had no claims against Idris Ahmed Essa, who is the 3rd Respondent in that matter.

3.35 It was also submitted that Idris Ahmed Essa has no claims against Mukambi Safari Lodge in that matter. As evidence in support of that position, Counsel stated that they had

exhibited 'EVH10' to the affidavit in opposition, which was dated 27th June, 2025.

- 3.36 It was also Counsel's submission, that the said matter is still subsisting, and that at the time the Consent Order was signed on 23rd November, 2022, the issues which were raised by Mukambi Safari Lodge, were and are still as they appeared on exhibit 'EVH10'. He added that they were questions of law that did not invite the determination of facts.
- 3.37 The continued submission was that even though Mukambi Safari Lodge had raised the questions of law, it had not discontinued the matter, and Idris Ahmed Essa was at liberty to address the Court on the questions of law.
- 3.38 Therefore, the reliance on the case of ***Euro Africa Kalengwa Mines Limited & six others v Euro Africa Mining Limited*** ⁽⁵⁾ was misplaced. Counsel also submitted that a reading of that case, revealed that it did not state that all the parties must execute a consent order to permit some of the parties to dispose of certain aspects of the matter.
- 3.39 With regard to the question of Idris Ahmed Essa suffering irreparable harm if the Order of injunction was not granted, Counsel's submission was that the same would have carried weight had Idris Ahmed Essa demonstrated that he owned a specific portion of the property in question.
- 3.40 It was stated that Counsel for Idris Ahmed Essa had submitted emphatically, but with no evidence, to show that Mukambi Safari Lodge had proceeded to subdivide the land

on the specific portion which was alienated to Idris Ahmed Essa.

- 3.41 Counsel submitted that this evidence from the bar should be disregarded as Idris Ahmed Essa had not stated so. It was further stated that in any case, Chief Kabulwebulwe before her demise, did not point to the portion of Mukambi Safari Lodge's land, which was allocated to Idris Ahmed Essa.
- 3.42 Thus, the question of irreparable injury did not arise, as Idris Ahmed Essa did not have title to the land, which even the Writ of Summons and statement of claim did not point to.
- 3.43 It was further submitted that there would be no point, as the Court would not, based on the pleadings that are before it, say that Idris Ahmed Essa owns a portion of the disputed land, as it had not been invited to make such a pronouncement in this matter.
- 3.44 Counsel thus contended that Idris Ahmed Essa had not satisfied the requirements for the grant of an Order of injunction, and the application should accordingly not be granted.
- 3.45 It was also stated that in the very alternative, if the Court was minded to grant the Order of injunction, it should consider that there are eight certificates of title, and the Order should be restricted to where Idris Ahmed Essa had interest. Counsel concluded the submissions, by stating that not doing so, would result in injustice to Mukambi Safari Lodge which had certificates of title to all the portions of the land.

REPLY BY COUNSEL FOR IDRIS AHMED ESSA

- 3.46 The submission in reply, was that Counsel was mindful that at this stage, the Court should avoid delving into the merits of the matter. He conceded that the facts of the ***Euro Africa Kalengwa Mines Limited v Euro Africa Mining Limited*** ⁽⁵⁾ were distinguishable from the facts of this case.
- 3.47 However, Counsel's view, was that the said case emphasized a legal principle relating to the Court endorsing a Consent Order or Judgment, as established in ***Order 42/5A/4 of the Rules of the Supreme Court of England, 1965, 1999 Edition.***
- 3.48 Therefore, his submission was that the submissions were not misguided or misconceived. Counsel also submitted that the fact that there were rival positions on whether a Consent Order should be signed by all the parties to a cause was in itself, indicative of whether there is a serious question to be tried by the Court.
- 3.49 He further submitted that paragraphs 17 and 18 of the affidavit in reply which was dated 4th July, 2025, showed that the subdivisions and the certificates of title that had been obtained for the same, were undertaken and generated on portions of the property which were alienated to Idris Ahmed Essa.
- 3.50 Counsel still in reply, submitted that there was a pending ruling in cause number 2020/HP/0279 on an application that had been made by Idris Ahmed Essa, on whether the

matter should be deemed as having been commenced by Writ of Summons, given the contentious factual nature of the evidence that had been deployed by the parties in that cause.

- 3.51 He added that the said cause had been adjourned sine die pending determination of this matter.
- 3.52 Submission was also made, on whether this Court was dissuaded from granting the Order of injunction based on the reliefs that are sought in this matter. Counsel however contended that granting of the Order of injunction was not informed by the reliefs that a party sought. He stated that if that were the case, a Defendant on a counterclaim would not be granted an Order of injunction.
- 3.53 Idris Ahmed Essa's interest in cause number 2020/HP/0279 was said to have been demonstrated by the Order which was exhibited as 'IAE2' to the affidavit in reply which was dated 25th April, 2025, which in the last paragraph at page R11, stated that he had an interest in the matter.
- 3.54 In also submitting on the interest that Idris Ahmed Essa has in the matter, exhibit 'IAE1' and in particular 'IA4' to the affidavit in reply dated 4th April, 2025, was stated as being a letter of complaint from the Chief over the land that was given to Mukambi Safari Lodge.
- 3.55 Counsel stated that restoration of the certificates of title for the subdivisions following the execution of the impugned Consent Order was contestable.

- 3.56 It was also submitted that while submission had been made on the manner that the summons had been framed with respect to the Order of injunction that was sought, Counsel stated that this Court had power to grant the Order of injunction in a manner that it deemed appropriate.
- 3.57 The additional submission was that it had been made very clear that the Order of injunction did not seek to stop the school from operating, but was in relation to interference with respect to the form of the subdivisions, and selling portions of the property that was alienated to Idris Ahmed Essa pending determination of the matter.
- 3.58 Counsel stated that surely, that was not asking too much, and his prayer was that the application be granted.

4. DECISION OF THIS COURT

- 4.1 I have considered the application.
- 4.2 ***Order 27 Rule 1 of the High Court Rules, Chapter 27 of the Laws of Zambia*** provides that:

“1. In any suit in which it shall be shown, to the satisfaction of the Court or a Judge, that any property which is in dispute in the suit is in danger of being wasted, damaged or alienated by any party to the suit, it shall be lawful for the Court or a Judge to issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such order, for the purpose of staying and preventing him from wasting, damaging or alienating the property, as

to the Court or a Judge may seem meet, and, in all cases in which it may appear to the Court or a Judge to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court or a Judge to appoint a receiver or manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court or a Judge may seem proper.”

- 4.3 **Order 3 Rule 2 of the said High Court Rules** on the other hand states that:

“2. Subject to any particular rules, the Court or a Judge may, in all causes and matters, make any interlocutory order which it or he considers necessary for doing justice, whether such order has been expressly asked by the person entitled to the benefit of the order or not.”

- 4.4 The provisions of **Section 13 of the High Court Act** are:

***“13. In every civil cause or matter which shall come in dependence in the Court, law and equity shall be administered concurrently, and the Court, in the exercise of the jurisdiction vested in it, shall have the power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as shall seem just, all such remedies or reliefs whatsoever, interlocutory or final, to which any of the parties thereto may appear to be entitled in respect of any and every legal or equitable claim or defence properly brought forward by them respectively or which shall appear in such cause or matter, so that, as far as possible, all matters in controversy between the said parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided; and in all matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.*”**

- 4.5 Before I delve into the merits of the application for the Order of injunction, I will address the question of whether the application has been properly made in this cause. Should I find that it has, then I will decide on the application for an Order of injunction.

- 4.6 Counsel for Idris Ahmed Essa, in making submission contended that the Consent Order in cause number 2020/HP/0279 in which he was joined as a 3rd Respondent, as he had demonstrated that he had sufficient interest in the matter, was executed without his participation and involvement.
- 4.7 Thus, pending determination of this matter, an Order of injunction should be granted to preserve his interest in the property.
- 4.8 The gist of the opposition, was that Idris Ahmed Essa will still have opportunity to address points of law in that matter, as it is still subsisting, and that he had not satisfied the Court that the Order of injunction should be granted, as he had not pointed to any portions of Mukambi Safari Lodges' property that he specifically owns.
- 4.9 Idris Ahmed Essa in reply, stated that the said cause has been adjourned sine die pending determination of this matter, although there is an application that has been made in that cause, to deem the matter as having been commenced by Writ of Summons due to the contentious issues that have been raised in the matter.
- 4.10 He also stated that in the affidavit in reply, he had demonstrated which specific portions of Mukambi Safari Lodges' land that he was allocated.
- 4.11 Exhibit 'EJVH2' to the affidavit in opposition which is dated 24th April, 2025, is the Consent Order that was executed in cause number 2020/HP/0279. In that matter, the parties

are Mukambi Safari Lodge as Applicant, and the Commissioner of Lands, the Attorney General and Idris Ahmed as the 1st to 3rd Respondents respectively.

4.12 The Consent Order reads as follows:

BY CONSENT of the Applicant and the 1st and 2nd Respondents acting through their respective Advocates, IT IS HEREBY AGREED and ORDERED that:

Upon execution of this Consent Order, the 2nd Respondent through the office of the Registrar of Lands and Deeds shall cancel entry No 4 on the Lands Register in relation to Farm No Mumbw/1368308 situate in the Central Province of the Republic of Zambia and shall reinstate entries number 1 and 2 on the Lands Register relating to the issuance of Certificate of Title No 20248 to the Applicant in relation to the property.

The Applicant shall have no further claims against the 1st and 2nd Respondents in relation to entry number 4 on the Lands Register in relation to the property or the facts leading up to this action.

The Applicant and the 1st and 2nd Respondents shall bear their own costs of and incidental to this Consent Order.

Dated at Lusaka this 23rd November, 2023

Hon Justice C.C. Zulu-High Court Judge

We Consent:_____

Mwenye & Mwitwa Advocates
Cnr of Chakeluka/Njoka Road
P.O. Box 50794, Lusaka
Email: inquiries@musamwenye.com
Advocates for the Applicant

We Consent:_____

The Attorney General's Chambers
New Kent Building
Haile Selassie Avenue
Lusaka
Advocates for the 1st and 2nd Respondents

4.13 Entries No 1, 2 and 4 on the Lands Register for the property F/Mumbw/1368308 which is exhibited as 'IAE1' to the amended affidavit which was filed in support of the application for an order of injunction, state as follows:

ENTRY NO 1	DATE OF DOC 04/04/2016	DATE OF REG 08/04/2016
LESSOR	THE PRESIDENT OF ZAMBIA	
LESSEE	MUKAMBI SAFARI LODGE LIMITED	
NATURE OF DOC	STATE LEASE FOR A PERIOD OF 99 YEARS FROM 01/11/2015 WITH AREA SIZE OF 208.8091 HECTARES	
		AREA 208.8091 ha
ENTRY NO 2	DATE OF DOC 08/04/2016	DATE OF REG 08/04/2016
TITLE HOLDER	MUKAMBI SAFARI LODGE LIMITED	
NATURE OF DOC	CERTIFICATE OF TITLE NO CT_ 20248	
ENTRY NO 4	DATE OF DOC 04/12/2019	DATE OF REG 04/12/2019
NATURE OF DOC	RECTIFICATION OF THE LANDS AND DEEDS REGISTER BY CANCELLATION OF ENTRIES NO 1 AND 2 PURSUANT	

**TO SECTION 11 (1) OF THE LANDS AND DEEDS REGISTRY ACT AS
THEY WERE REGISTERED IN ERROR AS PER THE MEMO FROM THE
COMMISSIONER OF LANDS DATED 07/11/2019 REQUESTING FOR
THE RECTIFICATION**

- 4.14 From the Consent Order, whose terms I have set out above, it can be seen that issuance of the certificate of title number CT_20248 for the property Number F/Mumbw/1368308 to Mukambi Safari Lodge was restored following cancellation of entry number 4 on the Lands Register, pursuant to a Memorandum that was authored by the Commissioner of Lands.
- 4.15 This effectively means that ownership of the land was restored to Mukambi Safari Lodge.
- 4.16 The application before me, is to grant an Order of injunction to Idris Ahmed Essa in relation to the property No F/Mumbw/138308, restraining Mukambi Safari Lodge whether by itself, its' servants, its' agents and/or representatives or otherwise whomsoever, from entering upon, for purposes of subdividing and/or developing and/or altering and/or selling and/or proceeding with the selling and/or transferring and/or mortgaging or pledging or otherwise howsoever, dealing in any way with the subject and/or any portion of Farm No Mumbw/1368308 situated in Central Province of the Republic of Zambia.
- 4.17 The Consent Order which restored ownership of the land to Mukambi Safari Lodge Limited was signed Hon Lady Justice C.C. Zulu, a High Court Judge.
- 4.18 **Section 4 of the High Court Act** provides that:

“4. Subject to any express statutory provision to the contrary, all the Judges shall have and may exercise, in all respects, equal power, authority and jurisdiction, and, subject as aforesaid, any Judge may exercise all or any part of the jurisdiction by this Act or otherwise vested in the Court, and, for such purpose, shall be and form a Court.”

4.19 It was held as follows in the case of ***Attorney General and the Speaker v The People*** ⁽³⁾:

“There is one High Court in Zambia. A decision of one Judge of the High Court becomes a Judgment of the High Court.

The proper procedure to adopt if dissatisfied with the Judgment of the High Court is to appeal to the Supreme Court, which would treat the appeal as a renewal of the application, or alternatively request the Judge who initially heard the matter, if new facts emerge, to review the decision in accordance with Order 39 of the High Court Rules”.

4.20 In view of the above, as Hon Lady Justice C.C Zulu and I, enjoy equal powers as High Court Judges, proceeding to determine the application for an Order of injunction would in effect be tampering with the Consent Order that she

indorsed on 23rd November, 2023, which would go against **Section 4 of the High Court Act.**

5. CONCLUSION

- 5.1 As such, I will not proceed to determine the application. The application should be heard by Hon Lady Justice C.C Zulu, more so, as from the submissions that have been made, the matter under cause number 2020/HP/0279 is still active before that Court.
- 5.2 This is further because, in this matter, what the issue for determination is, is the setting aside of the Consent Order which was executed under cause number 2020/HP/0279. Should that claim be successful, the proceedings under cause number 2020/HP/0279 with regard to the merits of the substantive claims will proceed.
- 5.3 I direct that costs of and incidental to this application shall be in the cause. The matter shall come up for a status conference on 14th October 2025 at 08:20 hours.

DATED AT LUSAKA THE 8th DAY OF SEPTEMBER, 2025

S. Kaunda
S. KAUNDA NEWA
HIGH COURT JUDGE

