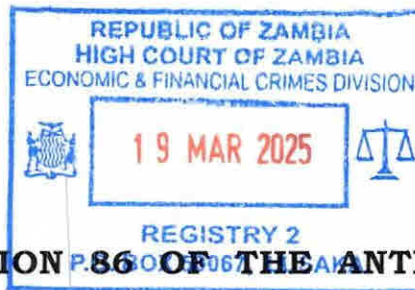


**IN THE HIGH COURT FOR ZAMBIA  
AT THE ECONOMIC AND FINANCIAL  
CRIMES REGISTRY  
HOLDEN AT LUSAKA**

*(Civil Jurisdiction)*



**IN THE MATTER OF: SECTION 86 OF THE ANTI-CORRUPTION  
ACT NO. 3 OF 2012.**

**IN THE MATTER OF: SECTION 59 OF THE ANTI-CORRUPTION  
ACT NO. 3 OF 2012.**

**IN THE MATTER OF: SECTION 60 (1) (3) (a) OF THE ANTI-  
CORRUPTION ACT NO. 3 OF 2012.**

**BETWEEN:**

**ACKSON TEMBO**

**APPLICANT**

**AND**

**ANTI-CORRUPTION COMMISSION**

**1<sup>ST</sup> RESPONDENT**

**FERGUSON KOMBE**

**2<sup>ND</sup> RESPONDENT**

***BEFORE THE HONOURABLE JUSTICES P. K. YANGAILO, A.  
MALATA-ONONUJU AND I. M. MABBOLOBOLO, IN CHAMBERS,  
ON 19<sup>TH</sup> MARCH, 2025.***

*For the Applicant: Mr. B. Ngalasa & Ms. M. Msimuko – Celine Nair &  
Company.*

*For the 1<sup>st</sup> Respondent: Mrs. N. K. Sedeme-Chizyuka & Mr. T. Maimisa – Anti  
Corruption Commission.*

*For the 2<sup>nd</sup> Respondent: Mr. Ferguson Kombe – In Person.*

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**JUDGMENT**

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**P. K. YANGAILO, J., DELIVERED THE JUDGMENT OF THE COURT.**

**CASES REFERRED TO:**

1. *Odhavji Estate v Woodhouse* [2003] 3 SCR 263;
2. *Caxton Publishing Company Limited v Sutherland Publishing Company Limited* (1999) AC 14JR78;
3. *Roy Chulumanda v Attorney General* – 2006/HP/2012;
4. *Anti-Corruption Commission v Tedworth Properties Limited* – Selected Judgment No. 49 of 2016;
5. *Essan v Attorney General* – Appeal No. 96 of 2014;
6. *Mukande Makungu v Attorney General* – HP1240 of 2021 (2022);
7. *Chiluba and Others v Attorney General* – (1990 – 1992) Z.R. 95 (HC);
8. *Clement Elalios v Road Transport and Safety Agency* – Appeal No. 85 of 2020;
9. *Elijah Simbai v ZIALE & two Others* – 2025/CCZ/0023;
10. *Martin Simumba v Anti-Corruption Commission* – 2014/HP/0637;
11. *Subramaniam v The Public Prosecutor* (1956) WLR 965; and
12. *Dora Siliya & Others v The Attorney General & Others* – (HP 1159 of 2013) [2013] ZMHC 23 (2 September 2013).

**LEGISLATION REFERRED TO:**

1. *The Anti-Corruption Act No. 3 of 2012 of the Laws of Zambia;*
2. *The Forestry Act No. 4 of 2015 of the Laws of Zambia; and*
3. *The Road Traffic Act No. 11 of 2002 of the Laws of Zambia.*

**OTHER WORKS REFERRED TO:**

1. *Winfield and Jolowicz Tort*, 17<sup>th</sup> edition (London: Sweet and Maxwell, 2006);
2. *Halsbury's Laws of England*, Volume 45
3. *Black's Law Dictionary*, 8<sup>th</sup> Edition, by Bryan A. Garner, Thomson West;
4. *The National Policy on Anti-Corruption*, Government of the Republic of Zambia, September, 2023 and
5. *Concise Oxford English Dictionary*, 11<sup>th</sup> Edition-Oxford University Press.

**1. INTRODUCTION**

1.1 This Judgment is in respect of the Applicant's Application, launched by way of Originating Summons and filed herein on 5<sup>th</sup> June, 2024. The Application is

made pursuant to **Section 86**, **Section 59** and **Section 60 (1) (3) (a)** of **The Anti-Corruption Act**<sup>1</sup>.

## **2. BACKGROUND**

2.1 The genesis of this Suit, as ascertained from the evidence on Record, is that during the course of investigations of alleged corrupt practices conducted by the Anti-Corruption Commission (“ACC”) against the Applicant, ACK General Suppliers and ACK Logistics Limited, the ACC impounded a Motor Vehicle that they suspected the Applicant to have allegedly used in connection with alleged corrupt practices and illegalities relating to Mukula logs. It is alleged by the ACC that the said Motor Vehicle was released to the legally registered owner after a Restriction Notice was placed on it.

2.2 The Applicant, Ackson Tembo, alleges that the said Motor Vehicle belongs to him and that the ACC unlawfully seized it. He further claims that he has been inconvenienced and has suffered damages by the continuous seizure of his Motor Vehicle. It is against this backdrop that the Applicant launched this Suit, seeking the following reliefs: -

- i. As against the 1<sup>st</sup> Respondent, an Order that the seizure, and the continuous seizure, of the Vehicle was and is unlawful owing to the numerous procedural irregularities prevalent in relation to the seizure;*

- ii. *An Order against the 1<sup>st</sup> Respondent for the release of the Vehicle belonging to the Applicant;*
- iii. *A Declaration that the decision to sell or grant the Vehicle to a third party in total disregard of the Applicant's interest from whom it was seized by the Respondents and doing so by the 1<sup>st</sup> Respondent without a Court Order is irregular, erroneous and amounts to conversion;*
- iv. *An Order against the 1<sup>st</sup> Respondent for Damages for conversion of the Vehicle to be calculated at the daily hiring rate from the date of seizure to the date of release, or as the Court will Order.*
- v. *An Order that the 2<sup>nd</sup> Respondent abused his office in his conduct and as such should be personally condemned in damages for abuse of office leading to the 1<sup>st</sup> Respondent's seizure of the Vehicle in issue.*
- vi. *An Order against both Respondents for Special Damages incurred by the Applicant arising from irregular seizure and conversion of his Vehicle to be assessed and among them being:*
  - a. *The cost of hiring a Vehicle for daily use from the date of seizure to the date of release subject to assessment by this Court.*

- b. *Damages for hiring Vehicles for office errands due to the seizure of the Subject Motor Vehicle in issue to be assessed by this Court.*
- vii. *Damages for the unlawful and illegal seizure of the Vehicle against both Respondents; and*
- viii. *Any Other relief that this Court may deem fit and appropriate.*

### **3. APPLICANT'S AFFIDAVIT IN SUPPORT**

3.1 The Application is supported by an Affidavit deposed by **Ackson Tembo**, the Applicant herein, who avers, *inter alia*, that on 7<sup>th</sup> December, 2021, while in the employ of ACK General Supplies ("Company"), the Respondents summoned him to the 1<sup>st</sup> Respondent's Office in relation to the involvement of the Company in the procurement and sale of Mukula Timber. It was vied that upon arrival at the aforementioned Offices, the Deponent's personal motor vehicle, a Toyota Landcruiser VX V8 with registration number BAT 2782 ("Subject Motor Vehicle"), was withheld from him without any notice or clear reason for the seizure by the Respondents and the only basis provided was a Form issued by the 1<sup>st</sup> Respondent, confirming receipt of the Subject Motor Vehicle. A copy of the Seizure Form dated 7<sup>th</sup> December, 2021, issued at 18:30 hours, marked "**AT1**" was produced.

- 3.2 The Deponent asserted that upon the seizure, his Counsel engaged the 2<sup>nd</sup> Respondent with the view of understanding if there was any reason for the seizure as there was no notice of any information relating to the Subject Motor Vehicle that was given either to him or his Counsel. The Deponent stated that the Subject Motor Vehicle was his personal vehicle which he had used to go and attend an interview at the ACC offices, in his capacity as Director of the Company, which Company is not the owner of the Subject Motor Vehicle.
- 3.3 The Deponent avowed that after a meeting with his Lawyer, the 2<sup>nd</sup> Respondent released the Subject Motor Vehicle without giving any reason for the seizure and the release. However, while on his way home, before he could even leave town, the 2<sup>nd</sup> Respondent called him and requested for him and his Counsel to return to the ACC offices as he had received instructions that the Subject Motor Vehicle should be seized.
- 3.4 In fear of being arrested, the Deponent obliged and informed his Counsel to return to the ACC Offices to surrender the Subject Motor Vehicle. Thereafter, he received another Seizure Notice that was issued on the even date at 19:25 hours. A copy of the Notice marked **“AT2”** was produced.
- 3.5 It was deposed that the Deponent’s Counsel tried to engage the 2<sup>nd</sup> Respondent to understand the basis of the seizure but the 2<sup>nd</sup> Respondent was adamant and

insisted that he had received instructions from the 1<sup>st</sup> Respondent to seize the Subject Motor Vehicle. He vied that he obliged to the demand as he was under fear of arrest.

3.6 It was asserted that the 2<sup>nd</sup> Respondent confirmed that indeed the Subject Motor Vehicle was unrelated to the Matter, but that he was under instructions from the 1<sup>st</sup> Respondent. The Deponent further asserted that since the aforementioned seizure(s), he had made numerous attempts to the Respondents, in order for them to furnish him with reasons as to why his Subject Motor Vehicle was being detained to this day.

3.7 The Deponent averred that on 22<sup>nd</sup> December, 2021, he communicated through his Advocates to the Respondents regarding the release of the Subject Motor Vehicle, emphasizing that he had not been provided with any complaint or summon or justification for the Subject Motor Vehicle's seizure, which letter has never been reacted to by the Respondents despite numerous follow ups in person and telephone calls. A copy of the letter duly received by the Respondents, dated 22<sup>nd</sup> December, 2021, marked "**AT3**" was produced.

3.8 The Deponent affirmed that on 25<sup>th</sup> August, 2023, he was served with a renewed Restriction Notice from the 1<sup>st</sup> Respondent despite never having been issued the first Notice. A copy of the renewed Restriction Notice marked "**AT4**" was produced. He asserted that despite

being surprised by the renewed Restriction Notice, his Lawyers wrote to the 1<sup>st</sup> Respondent advising that the Deponent had never been given a justification for the seizure nor had the ACC given him the basis of its interest in the Subject Motor Vehicle almost three years from the date it was unfairly and unjustifiably seized from him.

3.9 The Deponent avowed that he was informed by a trusted source that the Subject Motor Vehicle was thereafter given to a third party without his knowledge and approval. Following the above revelation, on 15<sup>th</sup> September, 2023, the Deponent responded to the renewed Restriction Notice, through his Advocates, requesting for an update on whether the inquiry related to the Subject Motor Vehicle has been completed but there was no response to the same. He asserted that this was done to get confirmation that indeed the Subject Motor Vehicle is still in the Commission's custody. A copy of the letter dated 15<sup>th</sup> September, 2023, marked "**AT5**" was produced.

3.10 It was deposed that on 23<sup>rd</sup> October, 2023, the Deponent through his Advocates engaged the Respondents on the same indicating that it had been more than three years since the Subject Motor Vehicle was seized and that he had not been charged with any offence in relation to the Subject Motor Vehicle. A copy of the letter dated 23<sup>rd</sup>

October, 2023, addressed to the 1<sup>st</sup> Respondent and marked “**AT6**” was produced.

3.11 It was asserted by the Deponent that he was informed by his Advocates that as of April, 2024, the Restriction Notice did expire and, in an attempt, to once again engage the Respondents on the matter, his Advocates wrote to the Respondents on two separate occasions by letters dated 8<sup>th</sup> May, 2024, and 28<sup>th</sup> May, 2024, respectively, but to no avail. Copies of the letters dated 8<sup>th</sup> and 28<sup>th</sup> May, 2024, respectively marked “**AT7**” and “**AT8**” were produced.

#### **4. 1<sup>ST</sup> RESPONDENT’S AFFIDAVIT IN OPPOSITION**

4.1 The Application is opposed by the 1<sup>st</sup> Respondent, who filed herein an Affidavit in Opposition, which is deposed by the 2<sup>nd</sup> Respondent, **Ferguson Kombe**, a Senior Investigations Officer in the employ of the ACC. He vied, *inter alia*, that during the course of conducting investigations of alleged corrupt practices contrary to Part 3 of **The Anti-corruption Act**<sup>1</sup> and **The Forestry Act**<sup>2</sup> against the Applicant, the 1<sup>st</sup> Respondent summoned the Applicant to appear before it for interviews on 6<sup>th</sup> December, 2021. It was asserted that following his failure to comply with the Summons that were issued by the 1<sup>st</sup> Respondent requiring him to appear before it, the Applicant was detained after he was apprehended from ACK Logistics Limited, which is his workplace.

- 4.2 It was deposed that during the time of apprehending the Applicant at his workplace, various motor vehicles were found at the premises, including the Subject Motor Vehicle, which was allegedly used by the Applicant for Mukula related activities.
- 4.3 The Deponent averred that on the said 6<sup>th</sup> December, 2021, the interview session begun around 16:30 hours, during which the Applicant was asked questions among other things, relating to the ownership of the Subject Motor Vehicle, but he gave unsatisfactory responses. As the interview continued, the Deponent decided to conduct a preliminary search of the ownership of the Subject Motor Vehicle with the Road Transport and Safety Agency (“RTSA”) using the Applicant’s National Registration Card.
- 4.4 It was further averred that upon the realisation that it was not going to be possible to conclude the interview the same day as it had become late, the Deponent and other Officers of the 1<sup>st</sup> Respondent took the Applicant to Richard Kachingwe Police Station for custody due to his failure to comply with the Summons issued by the 1<sup>st</sup> Respondent. At the time the Applicant was being taken to the said Police Station, the Deponent asked him to park the Subject Motor Vehicle in question and surrender the keys to the Deponent, who was the case Officer.

- 4.5 The Deponent deposed that on the 7<sup>th</sup> December, 2021, the interviews continued wherein the Deponent recorded a Warn and Caution Statement from the Applicant. Thereafter, the Applicant was charged and arrested for the matter that he is currently being prosecuted under Cause Number ISPC/050/2022 before Honourable I. Wishimanga, in the Subordinate Court of Lusaka.
- 4.6 The Deponent affirmed that the Subject Motor Vehicle was never seized but merely impounded from the Applicant and that reasons were furnished for impounding the Subject Motor Vehicle as it had become a subject of investigation. Furthermore, it was affirmed that although the Applicant alleges that the Subject Motor Vehicle was his personal vehicle, preliminary inquiries established that it was not his personal vehicle as a Printout from RTSA showed that it was registered in the name of Uzziel Milambo and that the Applicant failed to prove his claim of right. A copy of the Printout from RTSA marked “**FK1**” was produced.
- 4.7 The Deponent asserted that he called the Applicant back to the ACC Offices when the results of the preliminary inquiry from RTSA established that he was not the registered owner of the Subject Motor Vehicle and that since the Applicant was using the Subject Motor Vehicle in the commission of the alleged corrupt practices and illegalities relating to Mukula logs, it became imperative

to impound the Subject Motor Vehicle, being a subject of investigations.

- 4.8 The Deponent avowed that when the Applicant returned to the ACC Offices, he informed him that the Subject Motor Vehicle was being impounded because it had become a subject of investigations and that there was need to verify the true owner of the Subject Motor Vehicle as it was registered in the name of a third party. It was asserted that the Subject Motor Vehicle was never seized since the 1<sup>st</sup> Respondent never issued a Seizure Warrant as shown by the Applicant's exhibit marked **"AT2"**, but that the Subject Motor Vehicle was only impounded for reasons stated above.
- 4.9 The Deponent vied that the Applicant was informed of the reasons for impounding the Subject Motor Vehicle. Furthermore, it was vied that the Subject Motor Vehicle is no longer in custody of the 1<sup>st</sup> Respondent as it was released to the legally registered owner on 25<sup>th</sup> February, 2022, following the verification of ownership and a claim by the registered owner through its legal representatives. A copy of the said letter of claim dated 25<sup>th</sup> January 2022, marked **"FK2"** was produced.
- 4.10 The Deponent avowed that as investigations progressed, the 1<sup>st</sup> Respondent placed a Restriction Notice on the Subject Motor Vehicle on 18<sup>th</sup> January, 2022, which was addressed to the registered owner of the Subject Motor Vehicle, Mr. Uzziel Milambo, who was duly served while

the Applicant was merely copied. A copy of the said Restriction Notice marked **"FK3"** was produced.

4.11 The Deponent averred that after the Subject Motor Vehicle was released to the registered owner, the 1<sup>st</sup> Respondent received a letter from Mr. Ali Hussein Yehia who requested the removal of the Restriction. Mr Ali Hussein Yehia clarified that the Applicant was not the owner of the Subject Motor Vehicle, but only had possession of it during the time it was involved in the alleged corrupt practices involving the illegal attempt to transport Mukula logs.

4.12 The Deponent affirmed that Mr. Ali Hussein Yehia stated that the registered owner of the Subject Motor Vehicle, Uzziel Milambo, had allegedly sold the Subject Motor Vehicle to Mr. Ali Adel Diab and that subsequently, Mr. Ali Adel Diab sold the Subject Motor Vehicle to Mr. Ali Hussein Yehia in August, 2021.

4.13 Furthermore, the Deponent affirmed that Mr. Ali Hussein Yehia stated that being a business partner to the Applicant, he gave the said Subject Motor Vehicle to the Applicant to use in the Mukula log business as he was in charge of the operations and management, hence the Applicant's possession of the Subject Motor Vehicle.

4.14 The Deponent asserted that the reasons why the 1<sup>st</sup> Respondent did not respond to the Applicant's Legal Representative's letter was firstly the continuous lack of proof of the Applicant's right of claim of the Subject

Motor Vehicle; secondly, the Applicant was well informed of why the Subject Motor Vehicle was impounded; and lastly the Subject Motor Vehicle is still under investigations.

4.15 It was deposed that the Applicant is not entitled to any reliefs sought as he has no *locus standi*, nor claim of right and has failed to demonstrate his legal or equitable interest in the Subject Motor Vehicle which was rightly released to the registered owner.

## **5. 2<sup>nd</sup> RESPONDENT'S AFFIDAVIT IN OPPOSITION**

5.1 By the 2<sup>nd</sup> Respondent's Affidavit in Opposition, deposed by **Ferguson Kombe**, it was averred, *inter alia*, that on 8<sup>th</sup> September, 2021, the 1<sup>st</sup> Respondent received a complaint of alleged corruption and abuse of office relating to the 39 detained and seized containers of Mukula, at Chirundu and Mongu. On 19<sup>th</sup> October, 2021, the Acting Director-General of the 1<sup>st</sup> Respondent authorised the full-scale inquiry into the matter and it was allocated to the Deponent for investigations.

5.2 During his investigations, the Deponent discovered that a Chinese Company by the name of Donguan Baichang Company Limited, being represented by ACK General Supplies through a Power of Attorney, entered into a contract with Zambia Forestry and Forest Industries Corporation PLC ("ZAFFICO") relating to the export of Mukula tree logs. He also discovered that the Applicant

was a Shareholder and Director of ACK General-Supplies and ACK Logistics Limited.

- 5.3 The Deponent asserted that further to his investigations, on 3<sup>rd</sup> December, 2021, he summoned the Applicant for interviews, slated for 6<sup>th</sup> December, 2021, on allegations of offences suspected to have been committed in contravention of **Part 3** of **The Anti-Corruption Act**<sup>1</sup> and **The Forestry Act**<sup>2</sup>.
- 5.4 The Deponent then rehashed the contents of the 1<sup>st</sup> Respondent's Affidavit, which we will not reproduce here as they are on Record, save to state that the Deponent asserted that the 1<sup>st</sup> Respondent placed a Restriction Notice on the Subject Motor Vehicle on 18<sup>th</sup> January, 2022, addressed and served on Mr. Uzziel Milambo, with the Applicant merely being copied in, which Restriction Notice clearly indicated that the 1<sup>st</sup> Respondent was investigating offences suspected to have been committed under **Part 3** of **The Anti-Corruption Act**<sup>1</sup>.
- 5.5 The Deponent vied that he officially served a Warrant of Access on RTSA to ascertain which motor vehicles were owned by the Applicant, ACK General Supplies and ACK Logistics and that on 3<sup>rd</sup> February, 2022, RTSA wrote back to the 1<sup>st</sup> Respondent highlighting the motor vehicles that belonged to the Applicant and a schedule containing motor vehicles owned by ACK Logistics. The Deponent noted that the Subject Motor Vehicle was never among the motor vehicles that were registered

under the Applicant or ACK Logistics. A copy of a letter from RTSA and the schedule respectively marked **“FK4a- FK4b”** were produced.

- 5.6 The Deponent vied that a further analysis of the result of the search from RTSA established that the Subject Motor Vehicle was registered under the names of Mr. Uzziel Milambo, on 7<sup>th</sup> January, 2021, as shown on the Audit Trail marked **“FK5”**. Following the verification of ownership and claim by the legally registered owner of the Subject Motor Vehicle, on 25<sup>th</sup> of February, 2022, it was released to the registered owner through his legal representative. A copy of Form ACC 12 marked **“FK6”** was produced.
- 5.7 The Deponent further rehashed the contents of the letter written to the 1<sup>st</sup> Respondent by Mr. Ali Hussein Yehia, who claimed to be the owner of the Subject Motor Vehicle and introduced himself as business partner to the Applicant. He vied that the letter disclosed that the Subject Motor Vehicle played a role in transporting Mukula logs from collection points in Mufumbwe and Mansa. Mr. Ali Hussein Yehia also mentioned that it was agreed that the Applicant would oversee operations of the project and thus would often drive the Subject Motor Vehicle hence the Subject Motor Vehicle being found in his possession.
- 5.8 The Deponent asserted that Mr. Ali Hussein Yehia attached a copy of a White Book for the Subject Motor

Vehicle, a letter of sale from Mr. Uzziel Milambo to a Mr. Ali Yehia, dated 2<sup>nd</sup> August, 2021, and identification cards for himself, Mr. Ali Diab as well as Mr. Uzziel Milambo. Copies of the letters of sale and Identification Cards respectively marked “**FK9a – FK9e**” were produced.

5.9 The Deponent averred that during his interrogations with the Applicant, as well as a perusal of his Affidavit in Support, the Applicant has not exhibited any proof that he is either the registered owner or has a legal or equitable interest in the Subject Motor Vehicle. On this basis, it was his belief that the Applicant has not suffered any prejudice and is not entitled any reliefs sought.

5.10 The Deponent reiterated that at no point did he ever seize the Subject Motor Vehicle but only received or impounded it as an exhibit, as such, the only Forms that were issued to the Applicant were the two (2) Form ACC 12s and not Seizure Warrants.

## **6. AFFIDAVIT IN REPLY TO THE 1<sup>ST</sup> RESPONDENT**

6.1 By the Affidavit in Reply to the 1<sup>st</sup> Respondent’s Affidavit in Opposition to the Application, deposed by the **Ackson Tembo**, the Applicant herein, it was averred, *inter alia*, that ACK General Supplies was never summoned by the 2<sup>nd</sup> Respondent on behalf of the 1<sup>st</sup> Respondent, except a call that was made to him by Mr. Chiyuni inviting the Applicant for an interview, which he obliged.

- 6.2 The Deponent vied that when he was called by Mr. Chiyuni, he went driving to the 1<sup>st</sup> Respondent's Office in the Subject Motor Vehicle, in the company of his wife. He reiterated that the 2<sup>nd</sup> Respondent never issued any summons to him or ACK General Supplies Limited but to his surprise the 2<sup>nd</sup> Respondent, in the company of Mr. Shapwaya and Mr. Chiyuni, went to his workplace for an ordinary interview. After the said ordinary interview, he was asked by the 2<sup>nd</sup> Respondent to accompany the Officers to the ACC Office along ChaChaCha Road in Lusaka, which he did.
- 6.3 It was deposed that it was not true that the inquiry of 6<sup>th</sup> December, 2021, extended from the transaction of Mukula to the Subject Motor Vehicle as nothing was ever mentioned to him at ACC Offices to do with the Subject Motor Vehicle. He stated that this fact is evident from the Ordinary Statement and his Statement under Warn and Caution, which the Respondents have in their custody and deliberately failed to produce because the same will show that there was nothing to do with his Subject Motor Vehicle in the interview and in his Statements.
- 6.4 The Deponent vied that when it was too late for the Respondents to complete the process of Warn and Caution and Arrest, he was asked to be detained at Robert Kachingwe Police Station. He further vied that at that point, he was advised to surrender his Subject

Motor Vehicle keys and phones, as well as other valuables, as per the normal procedure.

- 6.5 He reiterated his earlier assertion that the 2<sup>nd</sup> Respondent seized the Subject Motor Vehicle from him without any reason given to him apart from Form 12 which he produced as exhibit **“AT1”**. He stated that the only reason he surrendered the Subject Motor Vehicle to the 2<sup>nd</sup> Respondent was because he was being detained and not that it was in relation to the investigations in any way.
- 6.6 The Deponent vied that the Subject Motor Vehicle is his personal vehicle, which he had used to go and attend an interview at the ACC Offices, in his capacity as Director of ACK General Supplies, which company is not the owner of the Subject Motor Vehicle. He stated that he bought the said Subject Motor Vehicle from Ali Diab when the Subject Motor Vehicle was just imported into the Country in June, 2024, after paying a sum of USD 60,000.00 and a delivery of the Subject Motor Vehicle was made to him pending the balance of USD 10,000.00 before the change of ownership was to be done.
- 6.7 The Deponent deposed that after a Meeting with his Lawyers, the 2<sup>nd</sup> Respondent released the Subject Motor Vehicle without giving any reason for the seizure and the release. It was his assertion that the Subject Motor Vehicle was seized from him and that at the time, the Subject Motor Vehicle had been sold to him through a

verbal agreement and that was how he had custody of the same. He stated that there was an agreement with Ali Diab and himself, who bought the Subject Motor Vehicle from Uzziel Milambo who was the importer of the Subject Motor Vehicle and that was why the Subject Motor Vehicle was not in his name or Ali Diab's name.

- 6.8 It was averred that the 2<sup>nd</sup> Respondent had never given him an opportunity to explain his interest in the Subject Motor Vehicle, as the numerous letters on Record will show, and that no statement has ever been obtained from him to explain the reason why he had the Subject Motor Vehicle which was in another person's name.
- 6.9 The Deponent avowed that he had been advised by his Counsel and verily believed the same to be true, that the issues of contract and true ownership of the Subject Motor Vehicle, being civil agreements, are to be determined by the Courts of Law and not the Respondents. The Deponent stated that it is a fact that the 1<sup>st</sup> Respondent decided to adjudicate on ownership of the Subject Motor Vehicle without engaging him.
- 6.10 It was deposed that at no point did the 1<sup>st</sup> Respondent inquire from RTSA in the period between 6<sup>th</sup> and 7<sup>th</sup> December, 2024. He asserted that the fact of the matter is that the 1<sup>st</sup> Respondent issued instructions between 18:30 hours and 19:25 hours, on the 7<sup>th</sup> day of December, 2024, while the 2<sup>nd</sup> Respondent was with him in the company of his wife and Counsel, and ordered the

seizure of his personal assets twice within a space of 45 minutes and in the evening.

6.11 The Deponent vied that the Subject Motor Vehicle in question was never party to any investigations as it was never even produced or even mentioned by any of the 31 Witnesses in the matter that was before the Subordinate Court. He deposed that in any case, the said matter has been concluded and all the 7 Accused Persons, to which he was the 5<sup>th</sup> Accused Person, have been acquitted as per the Judgment of Honourable Wishimanga, delivered on 23<sup>rd</sup> August, 2024.

6.12 The Deponent reiterated that the 1<sup>st</sup> Respondent had no justification in seizing the Subject Motor Vehicle without his knowledge and or consent and releasing it to another civilian. He added that the 1<sup>st</sup> Respondent has not even produced any evidence to show that the Subject Motor Vehicle was under any investigations whatsoever.

## **7. AFFIDAVIT IN REPLY TO THE 2<sup>ND</sup> RESPONDENT**

7.1 The Affidavit in Reply to the 2<sup>nd</sup> Respondent's Affidavit in Opposition was deposed by **Ackson Tembo**, the Applicant herein, who deposed, *inter alia*, that the 2<sup>nd</sup> Respondent was at all material times a Public Officer who was investigating his employer, ACK General Supplies over a civil transaction of Mukula between ACK General Supplies and ZAFFICO, emanating from a Contract of Sale of Timber. Copies of the contract between Donghuan Bican Company and ZAFFICO, and

the Power of Attorney between Donghuan Bican Company and ACK General Supplies Limited, marked **“AT1”** and **“AT2”**, respectively, were produced.

7.2 The Deponent asserted that the 2<sup>nd</sup> Respondent was very much aware, as a matter of fact, that the Deponent was personally never anywhere close to the investigation so as to extend seizure of his personal property as he did with the Subject Motor Vehicle. He further asserted that this fact is augmented by the Judgment of the Subordinate Court under cause No. ISPC/050/2022 where the Magistrate clearly stated that the State had no interest in the agreement between Donghuan Bican Company and ZAFFICO as it was procured by ACK General Supplies.

7.3 The Deponent vied that the 2<sup>nd</sup> Respondent fully knowing that the Subject Motor Vehicle and the Deponent were not subject of any investigation, informed him that he had instructions to seize the Subject Motor Vehicle and that was how he issued a Seizure Notice on record. It was asserted that during the course of the interview in his capacity as Director of ACK General Supplies Limited, the 2<sup>nd</sup> Respondent never questioned anything about the Subject Motor Vehicle nor did he make any inquiry on the ownership of the Subject Motor Vehicle.

7.4 The Deponent affirmed that the Subject Motor Vehicle was purportedly returned to a person without his

consent. He avowed that at the time James and Doris Legal Practitioners were purporting to represent Uzziel Milambo on 25<sup>th</sup> January, 2022, the Subject Motor Vehicle had already been sold to Ali Diab and passed to him as can be seen from the contract of sale produced by the 2<sup>nd</sup> Respondent as **“FK 9a”** in his Affidavit. The Deponent further avowed that the 2<sup>nd</sup> Respondent, as a Public Officer, had a duty to return the Subject Motor Vehicle to him or engage him before considering third parties. He stated that the reason he did not produce any documentation is because the 2<sup>nd</sup> Respondent never asked for them and that if he did, the 2<sup>nd</sup> Respondent would have known that the original registration book (White Book) was with him and in the seized Subject Motor Vehicle.

- 7.5 It was asserted that the Seizure Notices admitted by the Respondents have never been recalled. It was further asserted that the 2<sup>nd</sup> Respondent has never given him an opportunity to explain his interest as the numerous letters on Record will show and no statement has ever been obtained from him to explain the reason why the Subject Motor Vehicle that he had was still in another person's name. He vied that the 2<sup>nd</sup> Respondent acted in a manner that is inimical to his right to property, detrimental and prejudicial to his right to a fair hearing and acted contrary to the values of 1<sup>st</sup> Respondent as enunciated in the law and policy. Copies of extracts of

the National Policy on Anti-Corruption marked “AT 3” were produced.

## **8. APPLICANT’S SKELETON ARGUMENTS**

8.1 By Skeleton Arguments filed on behalf of the Applicant, the Applicant’s Counsel cited **Section 59** of **The Anti-Corruption Act**<sup>1</sup> as follows: -

*“(1) An officer shall effect a seizure by removing the movable property from the custody or control of the person from whom it is seized and placing it under the custody of such other person or authority and at such place as the officer may determine.*

*(2) An officer shall, where it is not practicable or otherwise not desirable to effect the removal of any property under subsection (1), leave it at the premises in which it is seized under the custody of such person as the officer may determine.*

*(3) An officer shall, where property is seized under subsection (2), make a record in writing specifying in detail the circumstances of, and the reason for, the seizure of the property and subsequent leaving of the property at the premises.* (Counsel’s emphasis)

8.2 Based on the foregoing provision, Counsel submitted that this provision of law explicitly outlines the procedure for effecting a seizure of movable property and that the failure to comply with the Act undermines transparency and accountability.

- 8.3 It was contended that the Applicant's Subject Motor Vehicle was seized on 7<sup>th</sup> December, 2021, without any record in writing specifying in detail the circumstances of, and the reason for the seizure of the Subject Motor Vehicle. Counsel stated that despite multiple inquiries made through correspondence following the seizure, no such record was provided to their client.
- 8.4 Counsel argued that the absence of such documentation violates the procedural requirements set forth in the Act and that the Respondents in so doing, ultimately failed to provide any justification for the seizure. It was further argued that the non-compliance with the provisions of this Act, particularly this section, not only erodes the foundation of transparency and accountability but also compromises the integrity of the legal system, which relies on adherence to statutory requirements to function effectively.
- 8.5 Counsel also argued that the non-compliance to the provisions of the Act damages public trust in institutions, as compliance is a key indicator of an organisation's commitment to lawful and ethical conduct. He added that ultimately, the non-compliance of provisions in this Act sets a poor precedent for Governance standards, potentially encouraging similar disregard for other regulatory frameworks.
- 8.6 Counsel asserted that in essence, compliance with the Act is not merely a procedural formality, it is central to

upholding the rule of law and maintaining the confidence of the public in the legal and institutional processes. Based on the foregoing, it was submitted that this Court should consider the procedural irregularities in the seizure process and award the Applicant his reliefs indicated in the Originating Process.

8.7 It was further submitted that despite being clothed with the authority to seize property, there exists restrictions on this authority which are outlined in **Section 60 (1)** of **The Anti-Corruption Act**<sup>1</sup>. Based on the foregoing, it was asserted that the Applicant had been served with a renewal of a Restriction Notice under the said **Section 60 (1)** without ever receiving an initial Notice. It was contended that this renewal Notice, in itself, is procedurally flawed due to the absence of an initial Notice. It was further contended that this can be implied to mean that without proper Notice, the Applicant was denied the opportunity to address any alleged offences or respond appropriately.

8.8 It was asserted that as of 25<sup>th</sup> May, 2024, the said renewal Notice had already expired as it was served on the Applicant on 25<sup>th</sup> August, 2023, and that despite this, the Respondents did not release the Applicant's Subject Motor Vehicle. Counsel submitted that in light of these circumstances, the renewal Notice served on 25<sup>th</sup> August, 2023, lacks validity due to the absence of

an initial Notice and the expiration of the original Notice as at 25<sup>th</sup> May, 2024. It was further asserted that the Respondent's actions not only undermine transparency and accountability but also infringes upon the Applicant's right to use and enjoyment of his property.

8.9 Counsel submitted that the 2<sup>nd</sup> Respondent, who occupied a Public Office, engaged in conduct that constitutes a grave violation of a legal norm by abusing his position of authority to seize the Applicant's Subject Motor Vehicle without proper Notice and continued to retain it even after the expiration of an unlawfully issued Restriction Notice. It was contended this egregious behaviour has resulted in significant harm to the Applicant, depriving him of the rightful enjoyment and use of his Subject Motor Vehicle.

8.10 Counsel argued that the 2<sup>nd</sup> Respondent's actions fall squarely within the purview of the tort of misfeasance in public office. It was further argued that by exceeding his lawful authority and causing harm to the Applicant, the 2<sup>nd</sup> Respondent has breached the duty owed to the public and violated the trust reposed in him as a Public Official. In elaborating the tort of misfeasance in public office, Counsel submitted that the Supreme Court of Canada reviewed the ingredients of misfeasance in public office in the case of ***Odhavji Estate v Woodhouse***<sup>1</sup> as follows: -

***“...To summarize, I am of the opinion that the tort of misfeasance in a public office is an intentional tort whose distinguishing elements are twofold: (i) deliberate conduct in the exercise of public functions: and (ii) awareness that the conduct is unlawful and likely to injure the Plaintiff...”***

8.11 Counsel submitted that going by the decision of the Court in the above cited case, the tort of misfeasance in a public office is an intentional tort characterised by two essential elements, the first element being a deliberate unlawful conduct in which public officials engage in deliberate actions that breach their lawful duties and these actions involve the misuse or abuse of their authority while performing public functions, and the second element is that there must be aware that their conduct is unlawful.

8.12 It was submitted that similar to other torts, misfeasance in public office is a civil wrong that can be redressed in law by an award of damages and relates to the intentional misuse of public power by a public officer. Counsel further cited the learned authors of ***Winfield and Jolowicz Tort***<sup>1</sup>, who state in ***paragraph 7 – 20***, on ***pages 358 to 360*** that: -

***“The purpose of the tort of misfeasance in public office is to give compensation to those who have suffered loss as a result of improper abuse of public power, it being based on the principle that such power may be exercised only for the public good and not for ulterior and improper purposes. It applies to an unlawful (that***

*is to say, unauthorised) act by a person holding a public office (which includes a public body such as a local authority, a Government Department or the Bank of England) provided that it is done with the requisite mental element... The mental element relates both to the validity of the act and its effects upon the claimant. As to the first, the officer must act in bad faith, that is to say he must either be aware that his act is unlawful or be consciously indifferent as to its lawfulness—negligence is not enough. As to the effect on the claimant, there are two situations. The first is what is called “targeted malice”, that is to say, the case where the Defendant acts with the purpose of causing harm to the claimant... Alternatively, the Defendant will be liable if he is aware that his act will probably (or in the ordinary course of things) cause damage of the type in fact suffered by the claimant or he is consciously indifferent to that risk.”*

8.13 Counsel submitted that in the present case, the Respondents committed the tort of misfeasance in a public office by unlawfully seizing the Applicant’s Subject Motor Vehicle, in that the Respondents, as public officials, wield significant authority. It was contended that the Respondent’s actions in seizing the Subject Motor Vehicle lacked proper justification and transparency and that this abuse of power constitutes misfeasance. It was further contended that the unlawful seizure caused tangible harm to the Applicant in that the Applicant was unable to enjoy or use the Subject Motor Vehicle during the seizure period

subsequently resulting in significant loss of income due to the Subject Motor Vehicle's unavailability as the Applicant's business primarily depends on the Applicant's ease of mobility. It was also contended that it caused heightened levels of anxiety and inconvenience.

8.14 Counsel submitted that given the Respondents' wrongful conduct, the Applicant is entitled to compensation which should address both tangible losses (e.g. financial) and intangible harm (e.g. emotional distress).

8.15 It was submitted that the 2<sup>nd</sup> Respondent released the Subject Motor Vehicle to a third party without the permission of the Applicant who was the owner. Furthermore, it was submitted that despite the expiration of the "renewal notice" issued by the Respondents, the Subject Motor Vehicle remains in the custody of the third party. It was contended that this sequence of events constitutes the tort of conversion. In support of this assertion, Counsel submitted the following contentions:

- i. *Unauthorised Release: The 2<sup>nd</sup> Respondent's act of releasing the Subject Motor Vehicle to a third party without the Applicant's consent constitutes an unlawful interference with the Applicant's property rights.*

ii. *Continued custody: The third party's retention of the Subject Motor Vehicle beyond the expiration of the renewal notice further exacerbates the conversion, as it perpetuates the interference with the Applicants ownership rights.*

8.16 Counsel submitted that the tort of conversion, as per ***Halsbury's Laws of England***<sup>2</sup>, involves the following: -

***"There must be a positive wrongful act of dealing with the goods in a manner inconsistent with the owner's rights and an intention: in so doing to deny the owner's rights or to assert a right inconsistent with them."***

8.17 Based on the above excerpt, it was submitted that the tort of conversion is a legal concept that involves the unlawful interference with another person's property rights and that it occurs when a person, without authority performs an act that interferes with the title of goods owned by someone else. Counsel submitted that the 2<sup>nd</sup> Respondent engaged in a positive wrongful act concerning the Applicant's Subject Motor Vehicle, which was inconsistent with the owners' rights. He cited the following elements to support his argument: -

i. *Wrongful Dealing: The 2<sup>nd</sup> Respondents actions – releasing the Subject Motor Vehicle to a third party without the owner's permission constitute a wrongful act. This act interferes with the title of the goods owned by the Applicant.*

ii. *Intent to Deny Rights: By releasing the Subject Motor Vehicle without authorization, the 2<sup>nd</sup> Respondent effectively denies the owner's rights. Their actions assert a right inconsistent with the Applicants ownership.*

8.18 Counsel asserted that the tort of conversion arises in this case due to the unauthorised dealing with the goods, which undermines the owners' rights. In fortifying his assertion, Counsel cited the case of **Caxton Publishing Company Limited v Sutherland Publishing Company Limited**<sup>2</sup>, which he asserted was informative in this instance.

8.19 It was finally submitted that conversion arises in this case due to the unauthorised dealing with the goods, which undermines the owner's rights.

## 9. **1<sup>ST</sup> RESPONDENTS' SKELETON ARGUMENTS**

9.1 By Skeleton Arguments filed on behalf of the 1<sup>st</sup> Respondent, the 1<sup>st</sup> Respondent's Counsel asserted, *inter alia*, that the Applicant herein alleges that the 1<sup>st</sup> Respondent defied **Section 59 (1) of The Anti-Corruption Act**<sup>1</sup>, which section outlines the procedure for effecting a seizure of property. It was submitted that this Court will note that neither the 1<sup>st</sup> Respondent nor the 2<sup>nd</sup> Respondent seized the Subject Motor Vehicle from the Applicant, and that what the 2<sup>nd</sup> Respondent merely did was to receive the Subject Motor Vehicle as an exhibit. It was asserted that the 2<sup>nd</sup> Respondent

impounded the Subject Motor Vehicle and recorded it on a document called Form ACC 12, and that that was the reason why the only documents that were issued to the Applicant were the Form ACC 12, appearing in the Applicant's Affidavit in Support as "AT 1" and "AT 2", respectively.

- 9.2 Counsel submitted that Form ACC 12 is a document that is used to record exhibits that are both received and returned back to the suspects and is never a document that is used to seize any property. She reiterated that despite not seizing the Subject Motor Vehicle, the 2<sup>nd</sup> Respondent in his line of duty explained to the Applicant the reasons why the Subject Motor Vehicle was being taken from him. Counsel argued that neither Respondents abrogated the procedure enshrined in **Section 59 (1)** of **The Anti-Corruption Act<sup>1</sup>** because that is not the law that they invoked.
- 9.3 It was submitted that the Applicant further alleges that the 1<sup>st</sup> Respondent defied the procedure under **Section 60 (1)** and **(3) (a)** of **The Anti-Corruption Act<sup>1</sup>** insofar as it relates to service of the Restriction Notice. Counsel invited the Court to **Section 60** of **The Anti-Corruption Act<sup>1</sup>**, which is couched as follows: -

***“(1) The Director-General may, by written notice to a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed under this ACT, or against whom a prosecution for an offence has been instituted,***

*direct that such person shall not dispose of, or otherwise deal with any property specified in such notice without the consent of the Director-General.*

*(2) A notice issued under subsection (1) may be served by delivering it personally to the person to whom it is addressed or may, where the Director-General is satisfied that that person cannot be found, or is not in the Republic, be served on or brought to the knowledge of that person in such other manner as the Director General may direct.*

*(3) A notice issued under subsection (1) shall –*

*(a) in respect of an investigation within the jurisdiction, have effect from the time of service and shall continue in force for a period of nine months until cancelled by the Director-general, whichever is earlier.*

*Provided that the Director-General may issue a fresh notice upon the expiry of the previous one for a further final term of six months to facilitate the conclusion of an investigation.” (Counsel’s emphasis)*

9.4 Counsel asserted that a reading of the law cited above entails that where the 1<sup>st</sup> Respondent imposes a Restriction Notice on a property or properties that are subject of an investigation, the person to whom the Notice is addressed to must be served. She stated that it further stipulates that the Restriction Notice can only come into effect once service has been effected on that person.

- 9.5 Counsel asserted that in the case in *casu*, the 1<sup>st</sup> Respondent issued a Restriction Notice that was addressed to the duly registered owner of the Subject Motor Vehicle, Mr. Uzziel Milambo and in copy was the Applicant as evidenced by exhibit marked “**FK3**”. She further asserted that the said Restriction Notice that was served on Mr. Uzziel Milambo was in accordance with **Section 60 (2)** of **The Anti-Corruption Act**<sup>1</sup> and that by virtue of that service, the Restriction Notice was in force.
- 9.6 It was contended that when the Restriction Notice was renewed, it was equally addressed to the registered owner Mr. Uzziel Milambo and the Applicant was simply copied in. It is thus Counsel’s submission that service of the renewed Restriction Notice on the Applicant was out of courtesy and not as a matter of right as the law does not bestow an obligation to serve persons that have been copied in. Counsel submitted that the 1<sup>st</sup> Respondent did not abrogate any laws as is enshrined in **The Anti-Corruption Act**<sup>1</sup> as alleged, but acted within the confines of its powers.
- 9.7 In response to the Applicant’s allegation that the 2<sup>nd</sup> Respondent committed an act of misfeasance for seizing and the continuous retention of the Subject Motor Vehicle from the Applicant, Counsel cited the learned authors of **Winfield and Jolowicz Tort**<sup>1</sup>, at

**paragraph 7-20**, on **pages 358 to 360**, which is reproduced in paragraph 8.12 above.

9.8 Counsel submitted that equally in the case of ***Odhavji Estate v Wood house***<sup>1</sup> cited by the Applicant, the Supreme Court of Canada highlighted what the Applicant must demonstrate in order to successfully sue for the tort of misfeasance. Counsel stated that the Court held that the Plaintiff, who in the case in *casu* is the Applicant, should demonstrate that: -

- i. *The 2<sup>nd</sup> Respondent deliberately conducted himself in an unlawful manner as he exercised his functions as Public Officer; and*
- ii. *The 2<sup>nd</sup> Respondent was aware that his unlawful conduct was likely to injure the Applicant.*

9.9 Counsel contended that the Applicant has firstly not demonstrated that the 2<sup>nd</sup> Respondent unlawfully exercised his functions as an Investigator when he impounded the Subject Motor Vehicle, which was and still is a subject of an ongoing inquiry. Secondly, it was contended that the Applicant has further not demonstrated to this Honourable Court that the 2<sup>nd</sup> Respondent conducted himself in an improper manner in abuse of his power when he issued the correct tools used to collect exhibits. It was further contended that the Applicant has not demonstrated to this Court whether the 2<sup>nd</sup> Respondents power to impound the Subject Motor Vehicle was done for any ulterior or

improper purpose. It was also contended that thirdly, and most importantly, the Applicant has not demonstrated to this Honourable Court how he has suffered loss, as can be clearly noted, the Subject Motor Vehicle did and does not belong to him.

9.10 In addressing the claims raised by the Applicant for tort of conversion, Counsel submitted that for the tort of conversion to manifest itself, the party alleging that his property has been wrongfully conveyed to a third party must either demonstrate that he is the legal owner or has an equitable interest in the property. Counsel argued that the Applicant cannot claim the tort of conversion when he has no claim of right and has failed to demonstrate his legal or equitable interest in the Subject Motor Vehicle, which was rightly released to the registered owner of the Subject Motor Vehicle.

9.11 Based on the forgoing, it was submitted that the Applicant has failed to demonstrate to this Honourable Court why it should grant him the reliefs sought and thus, the 1<sup>st</sup> Respondent humbly prays that this Court dismisses this Application and condemn him to costs.

## **10. 2<sup>ND</sup> RESPONDENT SKELETON ARGUMENTS**

10.1 The 2<sup>nd</sup> Respondent reiterated the 1<sup>st</sup> Respondent's Skeleton Arguments. For this reason, we shall not belabour to rehash them herein.

## **11. APPLICANT'S SKELETON ARGUMENTS IN REPLY**

11.1 By Skeleton Arguments, filed on behalf of the Applicant, the Applicant's Counsel submitted, *inter alia*, that the Respondents seem to have a problem with the term 'seizure' and opts to use the word 'impound'. He stated that the Respondents should not be allowed to hide in semantics. Counsel cited **Black's Law Dictionary**<sup>3</sup> for the definitions of 'impound', 'seize' and 'seizure' as follows: -

- i. *Impound: 1. To place (something, such as a car or other personal property) in the custody of the police or the Court, often with the understanding that it will be returned intact at the end of the proceedings; 2. To take or retain possession of (something, such as a forged document to be produced as evidence) in preparation for criminal prosecution.*
- ii. *Seize: 1. To forcibly take possession (of a person or property); 2. To place (someone) in possession; 3. To be in possession (of property) ...*
- iii. *Seizure: The act or an instance of taking possession of a person or property by legal rights or process; ...a confiscation or arrest that may interfere with a person's reasonable expectation of privacy (or property).*

11.2 Based on the definitions above, it was submitted that the common denominator is the taking of possession and placing into custody of a person in authority who

ordinarily will be doing so under lawful authority. Counsel asserted that he used the word 'ordinarily' because in some cases, that authority is abused and that is the basis of these proceedings.

11.3 Counsel submitted that he had searched ***The Anti-Corruption Act***<sup>1</sup> and has not seen any provision that allows impounding of property, except for ***Section 58*** of the said Act, which provides for seizing of property. He added that under that section, seizure of property occurs where in the course of an investigation into an alleged offence under this Act, an Officer has reasonable grounds to suspect that any movable or immovable property is derived or acquired from corrupt practices, or is the subject matter of an offence or is evidence relating to an offence, then the Officer will, with a warrant, seize the property.

11.4 It was argued that based on the Affidavits in Support of Originating Summons as well as the Affidavit in Reply, the Respondent did seize the Subject Motor Vehicle. Counsel added that unless it is an admission that they did not take possession of the Subject Motor Vehicle from the Applicant pursuant to the powers vesting in the Commission under ***Section 58*** making the 'taking away' of the Subject Motor Vehicle illegal.

11.5 It was contended that assuming it is agreed that Respondents did actually seize the Subject Motor Vehicle from the Applicant, the question that now

needs to be answered was 'who was under investigation' before the ACC when Ackson Tembo appeared for an interview? Counsel contends that the answer is found in the Affidavit of Ackson Tembo and Judgment of Honourable Wishimanga. Counsel stated that in his Affidavit, the Applicant has shown that he personally has never been a subject of investigation by the ACC. As such, any property that is personally his cannot be subject of any seizure if it cannot be reasonably connected to any offence or investigation.

11.6 Counsel contended that the seizure of the property by the Respondent was unlawful because the Applicant from whom the Subject Motor Vehicle was seized was and is not under investigations for three years since the Subject Motor Vehicle was seized. As such, it was contended that the seizure is unconstitutional, Wednesbury unreasonable and it should be so declared.

11.7 Counsel contended that the Applicant being a Director in a Company that is being investigated does not automatically turn one into a subject of investigations. He submitted that no responsible investigating officer properly directing his mind would have reached such an outrageous conclusion (of seizing the property from the Applicant).

11.8 It was submitted that this case is on all fours with the case of ***Roy Chulumanda v Attorney General***<sup>3</sup>.

Based on the foregoing, it was submitted that for any seizure to stand, the seizure must have been the subject of, and must have been recovered during the course of an investigation. Further, it was submitted that the investigation must relate to an offence alleged or suspected to have been committed under **The Anti-Corruption Act**<sup>1</sup>. Counsel contended that the onus was on the Respondents to show that the properties were recovered during the course of an investigation into an offence alleged or suspected to have been committed under **The Anti-Corruption Act**<sup>1</sup>.

11.9 Counsel submitted that there is nothing said in the Affidavits of Ferguson Kombe to suggest that the Subject Motor Vehicle or indeed the Applicant were subject of an investigation or that the property was recovered during an investigation.

11.10 He contended that the mere possession of the Subject Motor Vehicle that is in another person's name could not have been a matter for investigation under **The Anti-Corruption Act**<sup>1</sup>. It was further contended that if there was any wrong committed by the Applicant in acquiring the Subject Motor Vehicle, such a wrong should have been addressed by the Police and/or Court and not **The Anti-Corruption Act**<sup>1</sup> as was done herein.

11.11 Counsel submitted that there are rules on returning of seized property after they have been declared 'clean'.

The case of ***Anti-Corruption Commission v Tedworth Properties Limited***<sup>4</sup> was cited as follows: -

***“We must add that the purpose of the Regulations is to ensure that people who acquire property in suspicious ways answer to the Appellant. The claim does not literally mean that the disputed owner would simply go and collect the properties upon inadequately providing proof of their identity. Indeed, if the disputed owner makes a claim for the property and they are cleared, the property would be handed over to them and the matter would end there. Conversely, if the Appellant finds that the properties were acquired through suspected criminal means, it would proceed to either conduct further investigations or institute criminal proceedings against the purported owner. This is clear from Regulation 3(1)(a).”***

11.12 Counsel submitted that the 2<sup>nd</sup> Respondent’s Affidavit shows that as at 25<sup>th</sup> January, 2022, the Subject Motor Vehicle was not a property of Uzziel Milambo. He contended that the contradiction is so eminent that the Respondents should not have tolerated any claim of the Subject Motor Vehicle without engaging the Applicant.

11.13 It was contended that the evidence on Record shows how unbalanced the Respondents were in the manner that they attended to issue of the Subject Motor Vehicle. It was asserted that the Record is clear that while the Respondent gave the so-called claimant of the Subject Motor Vehicle, which was seized from the

Applicant, there was no engagement with the Applicant nor his Counsel.

11.14 It was argued that rooted in the principle of natural justice, procedural legitimate expectation protects procedural interest of the individual in public law. Counsel added that although procedural expectations by Applicant may manifest in various forms, they are all aspects of the “right to a hearing”, which an individual affected by a decision enjoys. It was submitted that the Courts developed this doctrine largely to ensure that the rules of natural justice are observed, to encourage good administration and prevent abuses by decision-makers.

11.15 Counsel submitted that the Respondents arbitrarily gave the Applicant’s property, or at least the property he had interest in, which was seized from him without affording him an explanation or hearing. It was submitted that the extent of connivance with other persons (named only by the Respondents in their Affidavits) to take away the Subject Motor Vehicle from the Applicant is not only a breach of expectation of public institution and office, but also confirms the rot that is alleged to be a defining character of the 1<sup>st</sup> Respondent, which should be condemned in the strongest terms.

11.16 Counsel cited ***The National Policy on Anti-Corruption***<sup>4</sup>, where at **page 6**, it is stated that: -

***“Leadership, Ethics, Integrity and Values Fighting corruption requires committed, accountable and ethical leaders with integrity, supported by systems and processes that are transparent. The Constitution provides for National Values, Principles, ethics, good governance and integrity. Government has also put in place institutional measures such as, National Guidance and Religious Affairs Policy to enhance the application of National values guidance and Religious affairs policy to enhance the application of National values and principles and ethics in individual institutional and national affairs, the Public Service Code of Ethics as well as the Parliamentary and Ministerial Code of Conduct Act, among others, to promote integrity and ethical leadership in public affairs and service.”***

11.17 Counsel submitted that Public Office bearers, such as the 2<sup>nd</sup> Respondent, should continue to lead by example in matters of propriety and ethics and be excellent role models of integrity. Counsel called on this Court to condemn any irregularity and/or misconduct of Public Officers and institutions. It was submitted that in totality, the conduct of the 2<sup>nd</sup> Respondent is far from reasonable efforts to promote a clean, high performing, more accountable and transparent service as there was no adherence to the fundamental values of the public service.

11.18 In conclusion, Counsel reiterated that the Respondents are expected by the Applicant and the public generally to perform their duties, demonstrate a high degree of

professionalism and carry out their roles with dedication and commitment to its core values, which the 1<sup>st</sup> Respondent has even displayed in its offices. Counsel urged this Court to condemn the Respondents in damages for the tort of misfeasance and conversion, among other reliefs, sought in the Originating Summons filed herein.

11.19 Finally, it was submitted that the Applicant has proven his case on the balance of possibilities that he has never been personally investigated for any offence under ***The Anti-Corruption Act***<sup>1</sup> and also that the Subject Motor Vehicle that was seized by the Respondents was never tainted hence them releasing after clearing it, although to a wrong person, in the manner that is questionable. It was further submitted that the Applicant has also demonstrated beyond peradventure that his expectation was that the release of the Subject Motor Vehicle would be done to him since he was the person the Subject Motor Vehicle was seized from. But that in breach of his expectation and public service values, the Respondents released the Subject Motor Vehicle to a different person who according to the Respondent's Affidavits has now sold the said Subject Motor Vehicle to other persons.

## **12. SUBMISSIONS AT THE HEARING**

12.1 At the Hearing of this Matter, the Applicant's Counsel augmented his Skeleton Arguments by submitting,

*inter alia*, that the Applicant has demonstrated blow by blow, his allegations, that the said seizure was done in breach of the rules governing the Respondents and rules of natural justice. Counsel cited the case of ***Essan v Attorney General***<sup>5</sup>, as follows: -

***“We could not agree more, clearly there was an affront to Essan’s human rights. We must state that there is an obligation on those entrusted in the exercise of public power to treat people or persons fairly in human rights. The role of Court was to ensure that persons are given fair treatment. Persons in the boundaries are entitled to protection of the law... There can be no such thing as unfettered directions immune from Judicial Review. In a situation such as this where the law appeared to grant absolute discretion and left little reason for questioning the legitimacy of exercise of power, Courts ought to be cautious of emerging trends towards a more open and transparent Government that provides the rule of law and human rights and curbs arbitrariness. The Court should go beyond the orders particularly where there seems to be evidence of arbitrariness...”***

12.2 Counsel contended that the Applicant has demonstrated that while the State has the power to seize property belonging to citizens, such power should be looked at in strict terms because of the potential abuse of public power and arbitrariness. It was contended that the 2<sup>nd</sup> Respondent did go beyond the authority given to him by the 1<sup>st</sup> Respondent in the manner he conducted himself and that the

Respondents acted without observing the rules governing them and rules of natural justice.

- 12.3 It was submitted that the Applicant has demonstrated that this case has merit in his favour and it is therefore his prayer that the reliefs sought be granted and in addition any other reliefs deemed fair and costs.
- 12.4 In response, the 1<sup>st</sup> Respondent augmented its written submissions by stating that the Applicant has no *locus standi* herein as evidenced from the exhibits from the search that was conducted at RTSA. It was asserted that the Subject Motor Vehicle was not one of the registered motor vehicles belonging to the Applicant, contrary to the claim that it is his personal motor vehicle.
- 12.5 Counsel submitted that the Applicant has not furnished this Court his interest nor has he qualified his interest in the Subject Motor Vehicle. It was asserted that the Applicant has not suffered any legal grievance by virtue of his inability to demonstrate his interest in the Subject Motor Vehicle. In fortifying her contentions, Counsel cited the case of ***Mukande Makungu v Attorney General***<sup>6</sup>, wherein the Court stated that *locus standi* is concerned with whether the Plaintiff is entitled to invoke the jurisdiction of the Court. Counsel stated that to have *locus standi* a Plaintiff has to be legally aggrieved. Counsel further drew our attention to the holding in the Supreme Court

case of ***Chiluba and Others v Attorney General***<sup>7</sup>, wherein the Court held that

***“To be legally aggrieved a person must not be merely dissatisfied with or even prejudiced by an action or discussion. He must also have been deprived of or refused something to which he was legally entitled.”***

12.6 Based on the foregoing, Counsel submitted that for the Applicant to seek solace from this Court, he must present his problem which this Court must be able to resolve or provide a solution to. She asserted that in the present circumstances, this Court has been presented a factual situation that does not require its aid in any manner as it only narrates mere dissatisfaction on the part of the Applicant.

12.7 Counsel argued that the Applicant is not the registered owner of the Subject Motor Vehicle and that there is actual proof that the Subject Motor Vehicle was actually sold by its registered owner as letters of sale will demonstrate. It was asserted that a close examination of the letters of sale does not disclose any information relating to the Applicant and as such, the only logical conclusion is that he has no interest in this matter whether equitable or legal. The case of ***Clement Elalios v Road Transport Safety Agency***<sup>8</sup> was cited in support of this submission.

12.8 It was further submitted that the Record will show that the Applicant has attempted to tactfully portray an

image that the Applicant and the Subject Motor Vehicle were not subject of investigations at any point prior to the 1<sup>st</sup> Respondent questioning him. It was contended that the purpose of this is intended to make it appear as though the 1<sup>st</sup> Respondent abused its powers or acted unfairly.

12.9 It was argued that it is not important that the Applicant or Subject Motor Vehicle were not initially part of the investigations. Counsel added that the important consideration is that during the course of what was an active investigation at the time, it became necessary to equally investigate the Subject Motor Vehicle for reasons explained in the Affidavit in Opposition. In fortifying this argument, Counsel placed reliance on the case of ***Elijah Simbai v ZIALE & two Others***<sup>9</sup>, wherein the 1<sup>st</sup> Respondent herein was acknowledged as being an investigative body, with authority established by the Constitution of Zambia to conduct its investigations in a manner that is intended to carry out justice.

12.10 On the allegation of misfeasance of public office, Counsel cited the case of ***Martin Simumba v Anti-Corruption Commission***<sup>10</sup>, in support of the submission that for the Applicant to succeed in a claim for damages, or misfeasance in public office, he must demonstrate that he has suffered loss as a result of the improper abuse of public office by the Director-General

or any other Officer of the 1<sup>st</sup> Respondent. She stated that the Applicant must also show that the Director-General exercised the power to issue a Restriction Notice for ulterior and improper purposes, and that the actions were malicious or that the investigations were contrary to what is contained in ***The Anti-Corruption Act***<sup>1</sup>.

12.11 Counsel contended that the Applicant has not satisfied or shown that he has suffered loss, nor has he shown that the 1<sup>st</sup> Respondent, by investigating him, abused its power. It was further contended that the Applicant has not provided this Court with compelling evidence or reasons to grant him the reliefs sought.

12.12 The 2<sup>nd</sup> Respondent adopted the arguments by Counsel for the 1<sup>st</sup> Respondent.

12.13 In reply to the foregoing argument by the Respondents, the Applicant's Counsel submitted, *inter alia*, that he finds the arguments that the Applicant has no *locus standi* herein startling and this is on account that while the Applicant has not provided documentary evidence to the 1<sup>st</sup> Respondent, there are people who provided documents to the 1<sup>st</sup> Respondent premised on which the 1<sup>st</sup> Respondent made up its mind to release the Subject Motor Vehicle to those persons of interest as shown by exhibit "**FK2**" produced in the Affidavit sworn by the 2<sup>nd</sup> Respondent.

12.14 It was submitted that a Contract of Sale produced in the same Affidavit, though not marked independently, but attached to a letter addressed to the Director-General of the ACC marked **"FK4"**, is dated 25<sup>th</sup> April, 2021, while the following page is another Contract of Sale dated 2<sup>nd</sup> August, 2021. He asserted that according to the two Contracts of Sale, the Subject Motor Vehicle was first sold in April by Milambo Uzziel to Ali Diab and that Ali Diab sold to Ali Yehia on 2<sup>nd</sup> August, 2021. It was asserted that from the testimony of the 1<sup>st</sup> Respondent, as at 2<sup>nd</sup> August, 2021, the Subject Motor Vehicle belonged to Ali Yehia and a perusal of the Record shows that Ali Yehia was at the time a Business Partner of the Applicant.

12.15 It was submitted that despite having these two Contracts of Sale, there is a letter that was earlier referred to marked **"FK2"**, dated 25<sup>th</sup> January, 2022, which is dated much later than August, 2021. Counsel stated that in that letter, written by James Mataliro of James and Doris Legal Practitioner, it shows that the owner of the Subject Motor Vehicle is Milambo Uzziel. Counsel added that the Subject Motor Vehicle was seized from the Applicant when he had gone for an interview at the 1<sup>st</sup> Respondent's offices. He drew the Court's attention to the common law presumption of custody being presumed as evidence of ownership.

12.16 Counsel further cited **Section 13** of **Road Traffic Act**<sup>4</sup>, which provides for a period in which a person who has acquired a motor vehicle should change ownership. It was submitted that failure to do so in the prescribed period, in his view, does not negate ownership. It was asserted that there is actually a penalty attached for not changing ownership in a period specified.

12.17 Counsel contended that what is surprising is that the 1<sup>st</sup> Respondent opted to surrender or release the Subject Motor Vehicle to a person other than the one who had custody at the time of seizure without giving any reason for that seizure. He asserted that the Respondents were duty bound to give reasons for their decision and that if there were any conflict, in so far as true ownership is concerned, it would have been prudent of the Respondents to allow a proper body to make such a decision, which in his view, the proper body is the Court of Law.

12.18 Counsel submitted that a perusal of the Record will show that the Applicant has claimed ownership of the Subject Motor Vehicle and has even mentioned in Paragraph 13 of his Affidavit in Reply that he actually paid the sum of \$60,000.00 towards the same, and after payment, possession was given to him. It was argued that premised on this, there is no basis for challenging the Applicant's *locus standi* herein.

12.19 It was asserted that the Applicant has demonstrated beyond peradventure that the Applicant has been deprived of his personal property from 2021 to now and there has been no process at the 1<sup>st</sup> Respondent, either by way of investigation or prosecution, in respect of the property in question.

12.20 It was submitted that the 1<sup>st</sup> Respondent brought out the issue of privity in a contract, which the Respondents argue that the same has been misconceived and misapplied. Counsel argued that adjudication of contracts remains the preserve of the Courts of Law. It was asserted that, in any case, the Contracts that the Respondents availed this Court, have parties who are not party to these proceedings and that the same Contracts were never authored by the Respondents. It was submitted that if this Court is to apply rules of evidence strictly, it will find that the said documents are actually documentary hearsay. Counsel place reliance on the case of ***Subramaniam v Public Prosecutor***<sup>11</sup> in support of the foregoing.

12.21 In response to the Respondents' contentions on the issue of misfeasance, it was contended that the matter in *casu* is a text book example of a case where the Commission, ACC, and its Officers acted maliciously, illegally and in total disregard of the rules of natural justice. It was submitted that the Record will show that the Applicant has so far written numerous letters,

which have been produced, requesting for the release of his Subject Motor Vehicle or status of investigations, if any. It was further submitted that it is on Record that the Respondents have never responded to that call, but during the same period and without informing the Applicant, the Respondents were not only engaging third parties over the Subject Motor Vehicle, thus, depriving the Applicant of possession and interest as argued herein.

12.22 Premised on the submissions and the documents on Record, Counsel for the Applicant contended that the Respondents acted with bias, *mala fide*, arbitrarily and in total disregard of the law. He prayed that the reliefs sought by the Applicant be granted so that the Applicant, who is a citizen, is protected.

### **13. CONSIDERATIONS AND DECISION OF THE COURT**

13.1 We have considered the Application and Affidavit evidence on Record. We have further considered the Skeleton Arguments and Authorities cited by learned Counsel, which have made our task easier. We have also considered the *viva voce* submissions made at the Hearing of this Matter.

13.2 This matter is commenced by Originating Notice of Motion and the Applicant seeks the reliefs as outlined in Paragraph 2.2 above.

13.3 This Application is made pursuant to **Section 59**, **Section 60 (1) (3) (a)** and **Section 86** of **The Anti-Corruption Act**<sup>1</sup>. The said Sections are, respectively, couched as follows: -

*“59(1) An officer shall effect a seizure by removing the movable property from the custody or control of the person from whom it is seized and placing it under the custody of such other person or authority and at such place as the officer may determine.*

*(2) An officer shall, where it is not practicable or otherwise not desirable to effect the removal of any property under subsection (1), leave it at the premises in which it is seized under the custody of such person as the officer may determine.”*

*“60(1) The Director-General may by written notice to a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed under this Act, or against whom a prosecution for an offence has been instituted, direct that such a person shall not dispose of or otherwise deal with any property specified in such notice without the consent of the Director-General.*

*(2) ...*

*(3) A notice issued under subsection (1) shall —*

*(a) in respect of an investigation within the jurisdiction, have effect from the time service and shall continue in for a period of*

*nine months or until cancelled by the Director -General, whichever is earlier; and...”*

**“86 Except where otherwise specifically provided for, all applications under this Act shall be commenced by way of originating summons.”**

13.4 The foregoing provisions provide the means within which an Officer can effect a seizure under **The Anti-Corruption Act**<sup>1</sup>. The provisions also prescribe the manner that the Director-General of the ACC can issue a Restriction Notice in relation to property subject of an investigation, as well as the effective period of such Notice. Finally, the provisions provide the manner in which an application made pursuant to **The Anti-Corruption Act**<sup>1</sup>, can be commenced, and that is by way of Originating Summons.

13.5 On our analysis of the Applicant and Respondents’ evidence and submissions on Record, in relation to the Applicant’s claims, we note that the Respondents have raised an issue relating to the Applicant not having *locus standi* to commence this action.

13.6 We are, therefore, of the view that the issue of *locus standi* ought to be determined first as it goes to the jurisdiction of this Court to grant the reliefs sought by the Applicant in this Application.

13.7 **Black’s Law Dictionary**<sup>3</sup>, at **page 960**, defines *locus standi* as the right to bring action or to be heard in a

given forum. Additionally, the **Concise Oxford English Dictionary**<sup>5</sup> defines *locus standi* as the right or capacity to bring an action or to appear in Court.

13.8 From the foregoing, it is clear that for one to have *locus standi*, he or she must have a right or must be entitled to bring an action or the right to be heard. Therefore, in the case at hand, to have *locus standi*, the Applicant must be the appropriate person to present the matter to this Court for adjudication by showing sufficient personal and direct interest in the case, in the sense of being personally adversely affected by the alleged wrong.

13.9 The foregoing position is fortified by the case of ***Dora Siliya (Femme Sole) Maxell Moses Boma Mwale (Male) v The Attorney General and The Electoral Commission of Zambia and Another***<sup>12</sup>, where it was held that: -

***“In order for an interested party to have locus standi or demonstrate sufficient interest, he must show that he would be affected by the court’s decision in a concrete sense, and not an abstract one.”***

13.10 This brings us to the consideration of whether the Applicant herein has shown that he has the *locus standi* to commence this action. From our analysis of the reliefs sought by the Applicant in this case, we note that they emanate from the Applicant’s claim that he is

the owner of the Toyota Landcruiser VX V8 Reg No. BAT 2782 (“Subject Motor Vehicle”).

13.11 To demonstrate his ownership of the Subject Motor Vehicle, the Applicant asserted that he purchased the Subject Motor Vehicle for the sum of USD60,000.00 from Ali Diab in June 2024, when the Subject Motor Vehicle was just imported into Zambia. He asserted that the Subject Motor Vehicle was delivered to him pending a balance of USD10,000.00, as a condition for change of ownership. It is on the basis of the foregoing, that the Applicant lays a claim to the Subject Motor Vehicle.

13.12 The Respondents, on the other hand, have contended that the Applicant herein has no *locus standi* as the Subject Motor Vehicle does not legally belong to the Applicant. The 2<sup>nd</sup> Respondent exhibited a copy of the RTSA Register of Motor Vehicles from the electronic Zambia Transport Information System (e-ZamTIS), whereon a list of the motor vehicles registered in the Applicant’s name were indicated. Our perusal of the list revealed that the Subject Motor Vehicle was not among the list of motor vehicles registered in the Applicant’s name.

13.13 Further, the Respondents have produced a copy of the RTSA Audit Trail Report which indicates that as at 1<sup>st</sup> July, 2021, the Subject Motor Vehicle was registered under the names of Uzziel Milambo. The 2<sup>nd</sup>

Respondent asserted that the 1<sup>st</sup> Respondent received a letter from Ali Hussein Yehia who asserted that the Subject Motor Vehicle, though in the names of Uzziel Milambo, had been sold to Ali Diab who later sold it to him (Ali Hussein Yehia). Copies of the Contracts of Sale of the Subject Motor Vehicle, relating to the two sale transactions dated 25<sup>th</sup> April, 2021 and 2<sup>nd</sup> August, 2021, were exhibited by the 2<sup>nd</sup> Respondent.

13.14 We note further, that the Applicant has alleged that he had purchased the Subject Motor Vehicle from Ali Diab in June, 2024, when the Subject Motor Vehicle was just imported into Zambia. However, the evidence on Record shows the Subject Motor Vehicle had been in Zambia by 2021 and that by that date, Ali Diab had sold it to Ali Hussein Yehia, as per the letters of sale exhibited by the 2<sup>nd</sup> Respondent.

13.15 From the foregoing, we are of the view that the Applicant has not demonstrated that he has a legal or equitable interest in the Subject Motor Vehicle as he has not led any cogent evidence, such as a letter of sale or copy of a White Book, indicating that he is the registered owner of the Subject Motor Vehicle. We are fortified by ***The Road Traffic Act***<sup>3</sup>, which defines owner as follows: -

***“owner” means, in relation to a vehicle other than a registered motor vehicle or trailer, the person having habitual possession and control thereof and, in relation***

**to a registered motor vehicle or trailer, the person in whose names the motor vehicle or trailer is registered: Provided that in the case of a hire-purchase agreement, "owner" means the person in possession of the vehicle under that agreement; ..."** (Our emphasis)

13.16 It is quite clear from the provision of law cited above that the owner of a registered motor vehicle is the person in whose names the motor vehicle is registered. It follows that proof of registration in the name of a person is *prima facie* evidence of ownership.

13.17 In our view, the Applicant merely stating that he purchased the Subject Motor Vehicle from Ali Diab without presenting any further supporting evidence, is not sufficient to prove his claim of ownership of the Subject Motor Vehicle. Ownership of the Subject Motor Vehicle is material in determining *locus standi*, which is the right to sue and be heard.

13.18 As earlier stated, without *locus standi*, even when a Party has a meritorious case, he cannot be heard because of that. It follows therefore, that the Applicant cannot be affected or prejudiced by the Respondents' conduct in relation to the Subject Motor Vehicle, as the Applicant has not demonstrated any ownership rights or sufficient interest in it. Accordingly, the Applicant is not the right person to bring this Action against the Respondents as he is not the owner of the Subject Motor Vehicle.

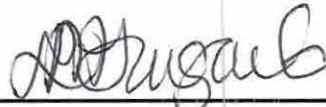
**14. CONCLUSION**

14.1 Based on the foregoing, we are of the view that the Applicant herein has failed to prove that he is the legal or equitable owner of the Subject Motor Vehicle. It follows, therefore, that the Applicant has failed to demonstrate sufficient interest in the Subject Motor Vehicle and as such, he does not have *locus standi* to seek the reliefs sought, which reliefs are based on his alleged claim of ownership of the Subject Motor Vehicle.

14.2 In view of the foregoing, we find that the Applicant's case before us lacks merit and is accordingly dismissed.

14.3 Costs are awarded to the Respondents, to be taxed in default of agreement.

**DELIVERED AND SIGNED AT LUSAKA, THIS 19<sup>TH</sup> DAY OF  
MARCH, 2025.**



**P. K. YANGAILO  
HIGH COURT JUDGE**



**A. MALATA-ONONUJU  
HIGH COURT JUDGE**



**I. M. MABBOLOBOLO  
HIGH COURT JUDGE**