

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

2025/HP/0441

BETWEEN:

MATTHEW KAKUNGU
(Suing as Senior Chief Tafuna)

**PLAINTIFF****AND**

MAYBIN MWANSA
BOZY SIMUTANDA

DEFENDANT
INTERESTED PARTY

BEFORE: HONOURABLE, LADY JUSTICE G. C. CHAWATAMA
IN CHAMBERS ON THE 29TH APRIL, 2025.

For the Plaintiff : Mr. E. B. Kaluba and Mr. M. Sambo both of Messers Emmanuel & Onesimus Legal Practitioners.
For the Defendant : Miss. C. Sichinga of Messers Japhet Zulu Advocates
For the Interested Party : In person

RULING

LEGISLATION AND OTHER WORKS REFERRED TO:

1. The High Court Rules Chapter 27 of the laws of Zambia
2. The Rules of the Supreme Court (Whitebook) 1999 edition.

1.0 INTRODUCTION

1.1 This is a Ruling on the application by the interested party to join the proceedings. The application was made by way of summons pursuant to **Order XIV rule 3 of the High Court Rules** which provide that:

“Where more persons than one have the same interest in one suit, one or more of such persons may be authorised to sue or to defend in such suit for the benefit of or on behalf of all parties so interested”.

2.0 AFFIDAVIT EVIDENCE

- 2.1 It was deposed by the Interested party that he is a duly appointed spokesperson, a person the Lungu Chiefs conferred with powers to speak on their behalf including the issues involving the walamo tradition site, as such an interested party on his behalf and of the whole Lungu Chiefs.
- 2.2 That the Plaintiff is a senior Chief Tafuna elect and not yet installed traditionally because he was elected by mistake to the throne when the duly appointed senior Chief Tafuna Raphael Tafuna Sikazwe was unable to carry out the duties of the Tafuna’s office due to circumstances beyond his control but that his now able but that a succession dispute arose with the Plaintiff which is pending Ruling /Judgment under cause No. 2020/HP/342.
- 2.3 That the Plaintiff has not been traditionally and officially authorized to carry out duties of the Senior Chief Tafuna until the matter pending ruling/judgment under cause No. 202/HP/342 which is a succession dispute between Raphael Tafuna and the Plaintiff is resolved by the Court as to who has a right of the throne of Tafuna.

2.4 It was averred that the Defendant is a chairman of the traders authorised by all Lungu Chiefs to trade at Walamo traditional site when the site is not in use for the traditional ceremonies pending ruling/judgment under cause number 2020/HP/342 before Justice Nwa. That the relief sought cannot be granted by this Court since its effect will be to preempt the decision of another High Court Judge, Nwa, under cause No. 2020/HP/342. Further, the relief is unsustainable, more so that Raphael Tafuna Sikazwe and the other Lungu chiefs are not parties to this action, and the Court essentially is to declare Mathews Kakungu, who is the Plaintiff, to be senior Chief Tafuna with authority which is not yet traditionally granted.

2.5 It was deposed that if this court cannot determine the questions, the decision of this court will directly affect the interest of the Lungu speaking people and the smooth running of walamo traditional site the property of the entire Lungu people.

3.0 AFFIDAVIT IN OPPOSITION

3.1 In opposing, the Plaintiff on the 15th April, 2025, filed an affidavit in opposition to summons for an Order for joinder of an interested party. It was deposed that the interested party is not a spokesperson for any of the Lungu chiefs and that his alleged appointment as spokesperson does not in any way extend to representing the Lungu Chiefs in Court. Further

that the alleged appointment does not in any way instruct the interested party to interfere in matters involving the walamo traditional site.

- 3.2 That in any event, the intended interested party is namwanga by tribe and in accordance with the customs, culture, and traditions of the Lungu people, he is not eligible to be appointed as a spokesperson for the Lungu people. That only individuals of Lungu origin who are also well-versed in the Lungu tradition, culture, and customs may be appointed to speak on behalf of the Lungu people when the need arises.
- 3.3 It was averred that the Plaintiff was selected as Senior Chief Tafuna on the 28th August 2018 through an electoral college and was thereafter installed as Senior Chief Tafuna on the 29th September 2018 by the Chifunda's people entrusted with the authority to install a person selected to hold the office of Senior Chief Tafuna. That the Plaintiff is also recognized by the Government of the Republic of Zambia and is currently on the payroll as Senior Chief Tafuna of the Lungu people.
- 3.4 That Raphael Sikazwe mentioned by the intended interested party has never held the position of Senior Chief Tafuna as he was convicted of murder and later pardoned after brutally attacking and killing the Plaintiff's predecessor while he was being taken to his palace following his installation as Senior Chief Tafuna in the year 2016.

3.5 It was averred that the affidavit in support in the matter under cause no. 2020HP/342 is not between the Plaintiff and Raphael Sikazwe as alleged but is between the Plaintiff, the Attorney General, John Sinyangwe and Mr. Simutanda. Raphael Sikazwe is not a party to those proceedings.

3.6 That on 22nd July 2020, the Court in delivering a ruling to the Plaintiff's application for an interim injunction under cause No.2020/HP/342 directed that the status must be preserved and the Plaintiff must continue to carry out the functions of the Senior Chief Tufuna until the final determination of the matter. A copy of the Ruling was exhibited and marked "MK1".

4.0 DECISION OF THIS COURT ON THE JOINDER APPLICATION

4.1 I have considered the application. The application has been brought pursuant to **Order 14 Rule 5 of the High Court Rules. Order 14 Rule 5 of the High Court Rules** states that:

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

4.2 The rationale for joinder of interested parties is explained in **Order 15/6/8 of the rules of the Supreme Court, 1999 edition** as;

- "(a) To prevent multiplicity of actions and to enable the Court to determine disputes between all parties to them in one action, and
- (b) To prevent the same or substantially the same questions or issues being tried twice with possibly different results, these objects are achieved by enabling a person not a party to be joined as a third party;

4.3 Although, the interested party claimed to be a spokesperson of the Lungu Chiefs, a perusal of his affidavit in support of joinder does not disclose a sustainable cause of interest in this matter. It is my considered view that the interested party has no *locus standii* in this matter.

4.4 In view of the above, the interested party's application for joinder is devoid of merit and the same is dismissed. Since the Plaintiff was made to respond to this application and incurred costs. It is only fair that I award the costs of this application to the Plaintiff, whose costs should be taxed in default of agreement.

DELIVERED AT LUSAKA THIS 20TH DAY OF MAY, 2025.


G.C. CHAWATAMA
HIGH COURT JUDGE