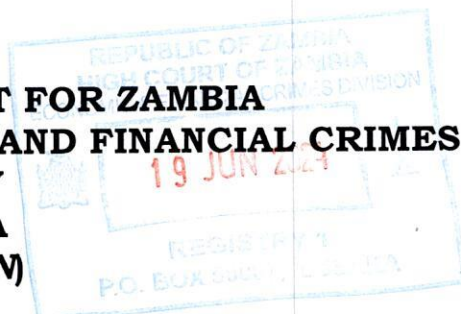


**IN THE HIGH COURT FOR ZAMBIA  
AT THE ECONOMIC AND FINANCIAL CRIMES  
DIVISION REGISTRY  
HOLDEN AT LUSAKA  
(CIVIL JURISDICTION)**

**2022/HPEF/12**



**IN THE MATTER OF: SECTIONS 29, 31 AND 71 OF THE  
FORFEITURE OF PROCEEDS OF CRIME  
ACT NUMBER 19 OF 2010**

**IN THE MATTER OF: SECTION 309 OF THE PENAL CODE  
CHAPTER 87 OF THE LAWS OF ZAMBIA**

**BETWEEN:**

**THE ANTI-CORRUPTION COMMISSION**

**APPLICANT**

**AND**

**PITTSICON ZAMBIA LIMITED**

**1<sup>ST</sup> INTERESTED PARTY**

**EMMANUEL SIPANDE MUGALA**

**2<sup>ND</sup> INTERESTED PARTY**

**PETER MALAO**

**3<sup>RD</sup> INTERESTED PARTY**

**EDSON MUGALA**

**4<sup>TH</sup> INTERESTED PARTY**

**LUCKY SIMBEYE**

**5<sup>TH</sup> INTERESTED PARTY**

**PUMULO MALAO**

**6<sup>TH</sup> INTERESTED PARTY**

**ALEXANDER MUMBA SAKALA**

**7<sup>TH</sup> INTERESTED PARTY**

**CHRISTINE KALELEMBA**

**8<sup>TH</sup> INTERESTED PARTY**

**IN RE-PROPERTY:**

**SUB-DIVISION 'N' OF SUB-DIVISION No. 16 OF FARM  
No.916 COMPRISING OF 18 SHOPS, SUB-DIVISION  
'C' OF SUB-DIVISION No. 16 OF FARM No. 916  
COMPRISING OF 2 RESIDENTIAL UNITS, SUB-  
DIVISION 'E' AND F' OF SUB-DIVISION No. 26 OF  
FARM No. 916 COMPRISING OF 6 RESIDENTIAL  
UNITS, SUB-DIVISION 'B' OF SUB-DIVISION No.16  
OF FARM No. 916 COMPRISING OF 5 RESIDENTIAL  
UNITS, SUB-DIVISION N' OF FARM No. 916  
COMPRISING OF 4 RESIDENTIAL UNITS, SUB-  
DIVISION 'P' OF SUB-DIVISION No.16 OF FARM No.  
916 COMPRISING OF 4 RESIDENTIAL UNITS, SUB-  
DIVISION N' OF LOT No. 15260/M COMPRISING OF  
14 SHOPS, UNNUMBERED DOUBLE STOREY  
RESIDENTIAL PROPERTY SITUATE AT LUSAKA,  
UNNUMBERED PROPERTY COMPRISING 4  
RESIDENTIAL UNITS SITUATE AT LUSAKA,**

UNNUMBERED PROPERTY COMPRISING 3  
RESIDENTIAL UNITS SITUATE AT LUSAKA,  
UNNUMBERED PROPERTY COMPRISING 3  
RESIDENTIAL UNITS SITUATE AT LUSAKA, HOWO  
SINO TRUCK- REGISTRATION MARK BBA 1540ZM,  
HOWO SINO TRUCK- REGISTRATION MARK BBA  
1746ZM, MITSUBISHI CANTER-REGISTRATION  
MARK BAP 5480ZM, TOYOTA DYNA-  
REGISTRATION MARK BLA 4813ZM, ISUZU D-MAX-  
REGISTRATION MARK BAR 3068ZM, HINO  
RANGER-REGISTRATION MARK BBA 16392NM,  
TOYOTA HILUX LEXUS 4144ZM, BAP MARK  
REGISTRATION LX570 REGISTRATION MARK BAL  
8998ZM, SHANTUI GRADER REGISTRATION MARK  
BBA 2696ZM AND SHANTUI GRADER  
REGISTRATION MARK BBA 2697ZM,  
SUBDIVISIONS SUB DIVISION NO. 16 OF FARM NO,  
916 COMPRISING OF 18 SHOPS SITUATE AT  
LUSAKA, SUBDIVISION 'C' OF SUBDIVISION NO. 16  
OF FARM NO. 916 COMPRISING OF 2 RESIDENTIAL  
UNITS SITUATE AT LUSAKA, SUBDIVISION 'E' AND  
SUBDIVISION 'F' OF SUBDIVISION NO. 26 OF FARM  
NO. 916 COMPRISING OF 6 RESIDENTIAL UNITS  
SITUATE AT LUSAKA, SUBDIVISION 'B' OF SUB  
DIVISION NO. 16 OF FARM NO, 916 COMPRISING OF  
5 RESIDENTIAL UNITS SITUATE AT LUSAKA,  
SUBDIVISION NO. 17 OF SUBDIVISION 'N' OF FARM  
NO. 916 COMPRISING OF 4 RESIDENTIAL UNITS  
SITUATE AT LUSAKA, SUBDIVISION 'P' OF  
SUBDIVISION NO. 16 OF FARM NO. 916  
COMPRISING OF 4 RESIDENTIAL UNITS SITUATE  
AT LUSAKA, SUBDIVISION NO. 1 OF SUBDIVISION B  
OF LOT NO. 15144/NM COMPRISING 16 FLATS  
SITUATE AT LUSAKA IN THE LUSAKA, NAMELY  
SUBDIVISION 'N' OF LOT NO. 15260/M COMPRISING  
14 SHOPS SITUATE AT LUSAKA, AN UNNUMBERED  
DOUBLE STORE RESIDENTIAL PROPERTY SITUATE  
AT LUSAKA, AN UNNUMBERED PROPERTY  
COMPRISING 4 RESIDENTIAL UNITS SITUATE AT  
LUSAKA, AN UNNUMBERED PROPERTY  
COMPRISING 8 RESIDENTIAL UNITS AN  
UNNUMBERED PROPERTY AT LUSAKA, SITUATE AT  
COMPRISING 3 RESIDENTIAL UNITS SITUATE AT  
LUSAKA, AN UNNUMBERED DOUBLE STOREY  
RESIDENTIAL PROPERTY SITUATE AT CHILANGA,  
AN UNNUMBERED PROPERTY COMPRISING 4  
RESIDENTIAL UNITS SITUATE AT CHILANGA, AN  
UNNUMBERED PROPERTY COMPRISING 6  
RESIDENTIAL UNITS SITUATE AT CHILANGA, AN  
UNNUMBERED PROPERTY COMPRISING 8

**RESIDENTIAL UNITS SITUATE AT CHILANGA, A DWELLING HOUSE COMPRISING FOUR (4) BEDROOMS SITUATE AT LUSAKA, SUBDIVISION S OF SUBDIVISION NO.1 OF FARM 916 COMPRISING FOUR (4) RESIDENTIAL UNITS SITUATE AT LUSAKA, RESIDENTIAL PROPERTY COMPRISING EIGHT (8) RESIDENTIAL UNITS SITUATE AT LUSAKA.**

**BEFORE THE HONOURABLE JUSTICES P. K. YANGAILO, A. MALATA-ONONUJU AND S. V. SILOKA ON THIS 19<sup>TH</sup> DAY OF JUNE, 2024.**

*For the Applicant:* Ms. G. M. Muyunda, Assistant Director Legal – Anti-Corruption Commission; Mr. D. Ngwira, Senior Legal & Prosecutions Officer – Anti-Corruption Commission

*For the 1<sup>st</sup> Interested Party:* Mr. M. A. Mukupa – Messrs. Isaac & Partners; Mr. Phiri – Makebi Zulu & Advocates

*For the 2<sup>nd</sup> Interested Party:* Mr. I. Simbeya – Messrs. Malisa & Partners

*For the 3<sup>rd</sup> Interested Party:* Mr. L. C. Lemba – Messrs. Mulungushi Chambers

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## **R U L I N G**

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***Siloka S. V., J. delivered the Ruling of the Court.***

**CASES REFERRED TO:**

1. *Godfrey Miyanda Vs The High Court (1984) Z. R. 62.*
2. *Zinka Vs The Attorney General (1990 – 1992) Z. R. 73 (S.C).*
3. *Henry Kapoko Vs The People (2016/CC/0023) Selected Judgment No. 43 of 2016.*
4. *Henry Kapoko Vs The People (2016/CC/0023) selected Judgment No. 43 of 2016.*

5. *Johaness Kenneth Siogopi (T/A Nam Transport Co. & Partnership) Vs Director of Public Prosecutions (Appeal No. 196 of 2020) (2022) ZMCA.*
6. *Access Bank (Zambia Limited Vs Group Five ZCON Business Joint Venture (SCZ/ 8/ 52) 2024.*
7. *NFC African Plc Vs Techro Zambia Limited (SCZ Judgment No. 22 of 2009).*

**LEGISLATION REFERRED TO:**

1. *Order 3 rule 3 (2) of the High Court (Amendment) Rules, Statutory Instrument No. 58 of 2020.*
2. *Section 2 of the Forfeiture of Proceeds of Crime Act No. 19 of 2010.*

**OTHER WORKS:**

1. *The United Nations Chapter (1945).*
2. *American Convention on Human Rights Treaty Series No. 36, Organization of American States, 1969.*
3. *Convention for the protection of the Human Rights and Fundamental Freedom.” Council of Europe Treaty Series 005, Council of Europe.*
4. *The African Charter on Human and People Rights (Banjil Charter) adopted in June 27, 1981, entered into force October 21, 1986.*

**1.0 INTRODUCTION**

- 1.1 This Matter was adjourned to the 24<sup>th</sup> of May, 2024, for Judgment. Before the Judgment could be delivered, the Interested Parties filed Summons for an Order to Set Aside the Court’s Order to adjourn the Matter for delivery of Judgment, for purposes of considering the Interested Parties’ evidence in opposition to the Application for a Non-Conviction Based Forfeiture Order, made pursuant to **Order 3 Rule 2** of the **High Court Act Chapter 27 of the Laws of Zambia**.
- 1.2 The Application was accompanied by an Affidavit in Support and Skeleton Arguments dated the 19<sup>th</sup> of April, 2024.

## **2.0 THE 1<sup>ST</sup> TO THE 5<sup>TH</sup> INTERESTED PARTIES' AFFIDAVIT EVIDENCE IN SUPPORT**

- 2.1 The Affidavit in Support was sworn by Emmanuel Sipande Mugala who averred that on the 3<sup>rd</sup> of October, 2022, the Applicant filed an Originating Notice of Motion supported by an Affidavit and Skeleton Arguments, seeking a Non-Conviction Based Forfeiture, in respect of properties listed in the caption of the Matter.
- 2.2 The Deponent further deposed that various Applications were made of which the latest was dated 30<sup>th</sup> of June, 2023, where the Court in its Ruling directed the Applicant to amend its Affidavit within 14 days to cure the defect and directed that the Interested Parties file an Affidavit in Opposition to the Substantive Application.
- 2.3 The Deponent further deposed that on the 20<sup>th</sup> day of February, 2024, the Court directed the Interested Parties to file an Opposition to the Application.
- 2.4 The Deponent further averred that on the 22<sup>nd</sup> day of February, 2024, the Court dismissed the preliminary Application and immediately ordered the hearing of the Substantive Application to proceed without giving the opportunity to the Interested Parties to file their Affidavit and Skeleton Arguments in Opposition to the Originating Notice of Motion, gravely prejudicing the Interested Parties, since the Court will proceed to render Judgment without considering the evidence and Arguments in Opposition of the Interested Parties.
- 2.5 The Deponent further averred that the Interested Parties have a defence on the merits against the Applicant's Application for the Non-Conviction Based Forfeiture Order.

2.6 That in the circumstances, the Interested Parties in the interest of justice be allowed to file their joint Affidavit in Opposition and Skeleton Arguments.

### **3.0 INTERESTED PARTIES' SKELETON ARGUMENTS IN SUPPORT**

3.1 Counsel submitted that the Application is properly before Court and this Court has jurisdiction to determine this Application pursuant to **Order 3 rule 3 (2)** of the **High Court (Amendment) Rules 2020** and as per the guidance laid down in the case of ***Godfrey Miyanda Vs The High Court***<sup>(1)</sup>.

3.2 Further Counsel submitted that the effect of the Court adjourning the Matter for Judgment without the Interested Parties' Skeleton Arguments in Opposition is that the Court will be proceeding without hearing the Interested Parties.

3.3 According to Counsel, the right to be heard is universally accepted as fundamental to litigation or/and the credibility of judicial proceedings and that the right to be heard has over the years been crystalized in various international conventions. Counsel referred the Court to various International Human Rights Instruments which include the Universal Declaration of Human Rights (UDHR), International Convention on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (American Convention).

3.4 Further, Counsel submitted that the Zambian Constitution guarantees the right to be heard as enshrined in **Article 18 (1)** of the **Constitution**.

3.5 Further, that the Zambian Judiciary in the case of ***Zinka Vs The Attorney General***<sup>(2)</sup> emphasized the importance of the right to be heard.

3.6 It was also Counsel's submission that **Article 118 (2) (e)** of the **Constitution of Zambia, Chapter 1** of the **Laws of Zambia as amended by the Act No. 2 of 2016** enacts as follows:

***"In exercising judicial authority, the Courts shall be guided by the following principles:***

***(e) justice shall be administered without undue regard to procedural technicalities."***

3.7 Counsel also relied on the case of **Henry Kapoko Vs The People**<sup>(3)</sup>.

3.8 It was contended by Counsel for the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties that the Interested Parties' right to a fair hearing can only be properly upheld if this Honourable Court allows the Interested Parties to file their Affidavit and Written Skeleton Arguments in Opposition to the substantive Application.

3.9 Further Counsel for the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties submitted that the Interested Parties failed to file the Affidavit in Opposition and Skeleton Arguments because they had raised a preliminary issue which was pending determination and that when the preliminary issue was dismissed, the Interested Parties were not given time to file their opposition.

3.10 As a result of the above, it was submitted by Counsel that the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties should be allowed to file in their opposition so that the Matter can be heard on its merits as guided in the case of **Stanley Mwambazi Vs Morrester Farms Limited**<sup>(4)</sup> where it was held that:

***"It is the practice in dealing with bona fide interlocutory applications for Courts to allow triable issues to come to trial despite the default of the Parties; where a Party is in default he may be ordered***

***to pay costs but it is not the interests of justice to deny him the right to have his case heard.”***

#### **4.0 THE HEARING**

- 4.1 When the Matter came up for hearing on the 21<sup>st</sup> of May, 2024, Counsel for the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties submitted that he would rely on the Summons for an Order to Set Aside Judgment, Affidavit in Support and Skeleton Arguments of even dates.
- 4.2 As regards Counsel for the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties, he prayed that the said Interested Parties be heard pursuant to **Section 13 of the High Court** and that if be allowed to be heard he would rely on the Affidavit in Opposition, Skeleton Arguments and List of Authorities of even dates.
- 4.3 Counsel further submitted the he was aware that the Matter was adjourned for Judgment but urged the Court to set aside Order to adjourn and take into account the interest of the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties.
- 4.4 In response, Ms. Muyunda, on behalf of the Applicant prayed before us to allow her to respond *viva voce* because the Application to set aside the Order adjourning the Matter for delivery of Judgment was served on the Applicant late and in disregard of the rules of service.
- 4.5 In the interest of justice, we allowed the Applicant’s Counsel to respond *viva voce*.
- 4.6 In opposing the Application, Ms. Muyunda submitted that paragraph 11 of the Affidavit in Support of the Application was not correct as it was insinuating that the Court directed the Interested Parties to file an Affidavit in Opposition on the 20<sup>th</sup> of February, 2024, which was barely two days before the Hearing of the substantive Matter on the 22<sup>nd</sup> of February, 2024.

- 4.7 It was Counsel's submission that the correct position is that the Applicant filed in its Amended Affidavit in Support for an Order of Non-Conviction Based Forfeiture on the 1<sup>st</sup> of August, 2023.
- 4.8 Further, that on 29<sup>th</sup> of August 2023, the Court issued Orders for Directions, wherein the Interested Parties was directed to file their Affidavit in Opposition within 30 days and the Applicant was allowed to file in its Affidavit in Reply 14 days thereafter.
- 4.9 Following the Orders of Directions given, the Matter came up for Hearing on the 16<sup>th</sup> of November, 2023, but that the Matter did not take off because the quorum for Judges was not formed after which the Matter was adjourned to the 22<sup>nd</sup> of February, 2024.
- 4.10 It was Counsel's submission that the Interested Parties had a period of 6 months to either file in an Affidavit in Opposition or make an Application for extension of time within which to file their Affidavit in Opposition but opted not to do so.
- 4.11 Counsel further submitted that as if that was not enough, when the Matter came up for Hearing on the 22<sup>nd</sup> of February, 2024, Counsel for the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties made an Application for Leave to file an Affidavit in Opposition and this Court determined the Application and declined to grant the Application to the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties.
- 4.12 In light of the said Ruling, Counsel submitted that this Court was *functus officio* as it had already determined this Matter.
- 4.13 According to Counsel, the Interested Parties were still making the same Application but couched in different terms.
- 4.14 It was Counsel's submission that the Interested Parties have couched their request of extension of time in a manner of setting aside the Order adjourning the Matter for Judgment.

- 4.15 Finally, Counsel submitted that the said Application should not be granted because this was a fast track Court.
- 4.16 Coming to the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties, Counsel submitted that the Applicant was aware that the said Parties had alluded to their interest when the Matter came up for Hearing on the 22<sup>nd</sup> of February, 2024, but that the said Interested Parties decided not to register their interest from February to date so that the Court could determine whether they have an interest in accordance with **Section 31 of FPOCA**.
- 4.17 It was Counsel's submission that the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties decided not to register their interest until a day before the Hearing, was a ploy to delay the hearing of this Matter, when this Court is a fast track Court.
- 4.18 Counsel beseeched this Court to allow the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties to make a formal Application and state their interest in accordance with **Section 31 of the FPOCA** but in the meantime the Court should proceed with the delivery of the Judgment as the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties explore other avenues of registering their interest even after Judgment had been rendered.
- 4.19 In reply Mr. Simbeye submitted that the Applicant has not suffered any prejudice since it was allowed to submit *viva voce* and have opposed the Application.
- 4.20 In conclusion, Mr. Simbeye prayed that the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties be allowed to file in the Affidavit in Opposition and Skeleton Arguments so that the Matter could be heard on its merits.

4.21 In further reply, Mr. Tembo, on behalf of the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties, submitted that the Court is not *functus officio* in relation to the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties.

4.22 It was also Counsel's submission that the **Forfeiture of Proceeds of Crime Act** permits an Application to be made at any time before the forfeiture order is made.

4.23 It was Counsel's submission that as shown in paragraph 17 to 18, the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties were not aware of these Proceedings and thus their Application to be heard before the Forfeiture Application is made.

4.24 Counsel submitted that this Court has got power to join the Interested Parties pursuant to **Section 13** of the **High Court Act** and **Section 12 of the FPOCA**.

## **5.0 ISSUES FOR DETERMINATION**

*(i) Whether this Application is properly before the Court.*

*(ii) Whether this Court can set aside the Order setting this Matter for Judgment so as to allow the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties to file their Affidavit in Opposition, Skeleton Arguments and List of Authorities to the Applicant's Application for Non-Conviction Based Forfeiture.*

*(iii) Whether the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties can be joined to these proceedings at this stage.*

## **6.0 ANALYSIS AND DECISION**

*(i) Whether this Application is properly before the Court.*

6.1 The case of *Miyanda Vs The High Court* extensively discussed the question of jurisdiction. Therefore, following the guidance in that decision and the provisions of **Order III rule 3 (2) of the High Court Act**, we agree that this Matter is correctly before us.

***(ii) Whether this Court can set aside the Order setting this Matter for Judgment so as to allow the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties to file their Affidavit in Opposition, Skeleton Arguments and List of Authorities to the Applicant's Application for Non-Conviction Based Forfeiture.***

- 6.2 In persuading us to grant the Application, Counsel for the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties relied on a plethora of Authorities, which all emphasized on the right to be heard.
- 6.3 We agree that the right to be heard as demonstrated by the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties is cardinal in the judicial process.
- 6.4 However, it is not true that the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties were not given the right to be heard.
- 6.5 As the Record will show, the Court on the 29<sup>th</sup> of August, 2023, gave Orders for Directions in which they should have filed their Affidavit in Opposition, Skeleton Arguments and List of Authorities in Opposition had they complied, but never did so.
- 6.6 It is upon failure of the 1<sup>st</sup> to 5<sup>th</sup> Interested Party to file their Opposition that this Court ordered that this Matter be adjourned for Judgment.
- 6.7 Further, as the Record will show, the 1<sup>st</sup> to the 5<sup>th</sup> Interested Parties were still given a chance by the Court to submit on a point of law in connection to the Substantive Application. The 1<sup>st</sup> to 5<sup>th</sup> Interested Parties accordingly did submit on a point of law.
- 6.8 From the analysis of Proceedings on Record, it is clear that the Court gave clear time lines in the Orders of Directions.

- 6.9 It is upon failure by the Interested Parties to abide by the Time lines given that this Court decided to proceed with setting a date for delivery of the Judgment in this Matter.
- 6.10 Even though, the Interested Parties failed to obey the Orders given, the Interested Parties were still given an opportunity, at the hearing of the substantive matter, to address the Court on a point of law as regards the Main Matter.
- 6.11 In addressing the Court, the Interested Parties were heard in conformity with the case of **Zinka and the Plethora of International Human Rights**<sup>(5)</sup> referred to us.
- 6.12 In light of the above, it is our considered view that the **Bob Zinka** case cited above is distinguishable and does not apply in this case. It does not apply because the Interested Parties were heard *viva voce*.
- 6.13 We must also state clearly that though we are bound by the guidance in the case of **Henry Kapoko Vs The People**<sup>(6)</sup>, our considered view is that the construction of the guidance given therein never meant to oust the obligations of litigants to comply with procedural imperatives as they seek justice from the Court, see the case of **Access Bank (Zambia Limited Vs Group Five ZCON Business Joint Venture)**.
- 6.14 Thus in dispensing justice, we gave Orders to both Parties in terms of how we would proceed but the Interested Parties decided to outrightly ignore the Orders. It is trite that a Party that ignores Orders of the Court does so at his own peril (see the case of **NFC Plc Vs Techro**).
- 6.15 Having disobeyed the Court Orders and the Court having proceeded the way it did, the Interested Parties cannot turn around and claim that they were not heard.

6.16 This Court, being a fast track, did its level best to afford the Interested Parties a chance to be heard through the Affidavit, List of Authorities and Skeleton Arguments but they opted to ignore the Court's Orders and were instead heard *Viva Voce*.

6.17 Finally, before we leave this point, we must state that we frown upon Counsel for the 1<sup>st</sup> to 5<sup>th</sup> Interested Parties for attempting to sneak in an Application which was earlier on denied. As the Record shows, this same Application was made and this Court declined it. Having declined the Application, Counsel cannot revive it indirectly. The Application remains declined.

***(iii) Whether the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties can be joined to these proceedings at this stage.***

6.18 Counsel for the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties submitted that pursuant to **Section 13** of the **High Court** and **Section 12** of the **FPOCA**, the Court has got powers to join the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties to these proceedings.

6.19 On the other hand, Counsel for the Applicant submitted that the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties have not made a proper application before Court, as such, she urged us to proceed with the Judgment as the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties still have other avenues available to them.

6.20 The view we take is that **Section 12** of the **Forfeiture of Proceeds of Crime Act of 2010** is very clear on the steps an Interested Party should take in registering his interest. In the case in *casu*, the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties have not properly registered their interest for the Court to properly take into account their interest.

6.21 Further, it is our considered view that considering the stage the Matter has reached, it would be more appropriate to proceed

with Judgment because the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties still have other avenues available to them to assert their interest. Since no prejudice will be occasioned to the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties, their Application to be joined to these proceedings at this stage is declined.

## 7.0 CONCLUSION

7.1 In conclusion, the Application by the 1<sup>st</sup> to the 5<sup>th</sup> Interested Parties to Set Aside the Order adjourning this Matter for deliver of Judgment in order to afford them chance to file the Affidavit in Opposition, Skeleton Arguments and List of Authorities in Opposition before Judgment is delivered is declined.

7.2 Further the Application by the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Interested Parties to be joined to the proceedings is also declined.

7.3 The Application is dismissed with Costs to the Applicant, to be taxed in default of agreement.

**DELIVERED AT LUSAKA THIS 19<sup>TH</sup> DAY OF JUNE, 2024.**



Handwritten signature of P. K. Yangailo in black ink.

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

Handwritten signature of A. Malata-Ononuju in black ink.

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

Handwritten signature of S. V. Siloka in black ink, with a long horizontal line extending to the right.

**S. V. SILOKA  
HIGH COURT JUDGE**