

**IN THE HIGH COURT FOR ZAMBIA  
THE FAMILY & CHILDREN'S DIVISION REGISTRY  
HOLDEN AT LUSAKA**

**2023/HPF/446**

*(Civil Jurisdiction)*

**IN THE MATTER OF:**

**SECTIONS 3 AND 5 (1) (D) OF THE  
INTESTATE SUCCESSION ACT**

**IN THE MATTER OF:**

**CAP 59 OF THE LAWS OF ZAMBIA**

**SECTION 19(1)(B) AND (C) OF THE  
INTESTATE SUCCESSION ACT**

**AND:**



**CAP 59 OF THE LAWS OF ZAMBIA**

**APPLICATION TO RENDER**

**ACCOUNT AND DISTRIBUTION OF**

**THE ESTATE OF THE LATE**

**DONALD DAVIES MAYUYA**

**COMPRISING INTER ALIA A**

**HOUSE AND A SERVANT**

**QUARTER, A FARM, A**

**UNFINISHED HOUSE, LIVESTOCK  
AND A MOTOR VEHICLE**

**BETWEEN:**

**NTITIMA HARRY MUYUYA**

**KALIMA MUYUYA**

**PENELOPE MUYUYA**

*(All suing in their capacity as beneficiaries of the late Donald Mayuya)*

**AND**

**MIRRIAM MUSONGO MAYUYA**

*(Sued in her individual capacity as well as her purported capacity as  
Administrator of the estate of the late Donald Davies Mayuya)*

**1<sup>ST</sup> APPLICANT**

**2<sup>ND</sup> APPLICANT**

**3<sup>RD</sup> APPLICANT**

**RESPONDENT**

***Before the Hon. Mrs. Justice M.M. Bah-Matandala,***

***On the 15<sup>th</sup> day of May, 2024.***

For the Plaintiff: Mr. L Njungu - Messrs. Mutemwa Chambers.  
For the Defendant: Mr. L. Chilengala & Mr. Ngoma - Messrs. Kalokoni & Co.

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# R U L I N G

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## **LIST OF AUTHORITIES REFERRED TO:**

1. *African Banking Corporation Zambia vs. Mubende Country Lodge Limited, SCZ Appeal No 116/2016 (March, 2020)*
2. *Intelligent Mobility Solutions vs. Lamise Trading Limited (Appeal No 214/2022) delivered on 28<sup>th</sup> and 29<sup>th</sup> of August, 2023)*
3. *Leopold Walford (Z) Limited vs Unfreight (1985) ZR 283*

## **CASE LAW**

1. *The High Court Rules of Zambia*
2. *The Rules of the Supreme Court White Book*
3. *The Intestate Succession Act Chapter 59 of the Laws of Zambia*

## **1.0 INTRODUCTION**

1.1 This is a Ruling on two applications. The first one is an application for an Order to set aside the Originating process for irregularity pursuant to **Order 2 Rule 2 of the Supreme Court of England 1965 (1999) Edition**. And the second application is for the grant of Ad Colligenda Bona pending full grant of letters of administration pursuant to section 37 of the Intestate Succession Act Chapter 59 of the Laws of Zambia.

## 2.0 BACKGROUND

2.1 The background of the matter is that by an originating summons dated 23<sup>rd</sup> August, 2023 the Applicants sought the following reliefs against the Respondent:

1. *A declaration that the Applicants are the beneficiaries to the estate of the late Donald Davies Mayuya.*
2. *An order that the Respondent provides a full and accurate information on how the estate of the late Donald Davies Mayuya has so far been run and render an up-to-date inventory of the same estate.*
3. *An order that those properties belonging to the estate of the late Donald Davies Mayuya prone to distribution be disposed of and the proceeds be shared among all entitled beneficiaries.*
4. *An order that the Respondent awards the Applicants their entitlements out of what has already been disposed of, if any, from the estate of the late Donald Davies Muyuya.*

5. *An order that the letters of Administration for the estate of the late Donald Davies Muyuya issued to the Respondent or any other person by the Lusaka Local Court are invalid.*
6. *An order that the Applicants together with the Respondents jointly obtain letters of administration from the High Court to expedite distribution of the late Donald Davies Muyuya as already prayed above.*
7. *Damages for mental stress and anguish.*
8. *Any other relief that the Court may deem fit.*
9. *Costs incidental to the proceedings.*

2.2 The Respondent on 7<sup>th</sup> September, 2023 filed Summons to set aside the Originating Summons for irregularity pursuant to Order 2 rule 2 of the Supreme Court Rules of England 1999 edition.

2.3 And further before the determination of the first application, the Respondent on 13<sup>th</sup> October, 2023 filed an expert summons for an order of a grant of Ad Colligenda Bona pending full grant of letters of administration

pursuant to section 37 of the Intestate Succession Act Chapter 59 of the Laws of Zambia.

2.4 It is against this background that this Ruling set to determine the two applications by the Respondent.

### **3.0 AFFIDAVIT IN SUPPORT THE APPLICATION TO SET ASIDE THE ORIGINATING PROCESS FOR IRRIGULARITY**

3.1 The gist of the averments in the Affidavit in Support of Summons to set aside the Applicant's Originating Summons for irregularity deposed to by **Mirriam Musongo Muyuya** in her capacity as the Respondent, is that her names are Mirriam Musongo Muyuya and not the incorrect name of Mirriam Musongo Mayuya appearing on the originating summons. In support of the correct spelling the National Registration Card was exhibited as "MMM2" copy of the deceased's National Registration Card (NRC) to confirm the correct spelling of the name of herself.

3.2 Further it was averred that the correct names for the deceased being the late husband to the Respondent is Donald Davies Muyuya and not the incorrect names of

Donald Davies Mayuya appearing on the originating summons.

3.3 The Respondent claims that due to the aforesaid misspelling, she then does not know who the Applicants are referring to in the originating summons herein and that the Respondent could not file her defence as she does not know the person who has been sued.

#### **4.0 SKELETON ARGUMENTS IN SUPPORT OF THE APPLICATION**

4.1 In the Skeleton Arguments in support of this application filed on even dates as the Summons, it was submitted that this Court is reposed with jurisdiction to set aside any document that is made in defiance with the rules of Court.

4.2 The argument was to the effect that the identity of the person being sued is unknown and therefore the originating summons is irregular and should be set aside.

4.3 The Respondent submitted that the application has been made timely as per **Order 2 Rule 2(1) of the White Book** wherein it is stated that an application to set aside for irregularity must be made within reasonable time and

before the party applying has taken any fresh step after becoming aware of the irregularity.

4.4 In support of the proposition herein before, it was submitted that upon receipt of the originating process on 25<sup>th</sup> August, 2023, the Respondent filed this application in compliance with the cited provision being made within reasonable time before the Respondent has taken any first steps that could be viewed as a waiver of the irregularity

4.5 The Respondent has prayed that the originating summons in this action be side aside for irregularity and that a fresh process be served on her after the irregularity is cured.

## **5.0 AFFIDAVIT IN SUPPORT OF SUMMONS FOR GRANT OF AD COLLIGENDA BONA PENDING FULL GRANT OF LETTERS OF ADMINISTRATION**

5.1 The Respondent's second application was a summons for an order of a grant Ad Colligenda Bona pending full grant of letters of administration pursuant to section 37 of the Intestate Succession Act Chapter 59 of the laws of Zambia filed with the supporting affidavit on even date of 13<sup>th</sup> October, 2023.

- 5.2 The affidavit was deposed to by the Respondent in her capacity as the surviving suppose of the late Donald Davies Muyuya and as the alleged Respondent herein.
- 5.3 It was averred that the deceased died intestate at Lusaka on 22<sup>nd</sup> May, 2016 and among his assets were about 7 cattle that are in the custody of the deceased's nephew, Davy Muyuya at Namununga village in Chief Mungule's area.
- 5.4 The Respondent stated that as the originating process showed, the deceased left behind 8 children who are all said to be adults now, and the youngest being aged 27 years old. The Respondent avers that at the instance of the 2<sup>nd</sup> Applicant, the Lusaka Boma Local Court revoked the Order of Appointment of Administrator earlier granted to her and the 1<sup>st</sup> Applicant in order to pave way for obtaining letters of Administration from the High Court of Zambia. The Respondent exhibited the copies of the Order of Appointment of Administration and the Certificate of Judgment revoking the same as exhibit "MMM1" and "MMM2".

- 5.5 The Respondent then averred that on 23<sup>rd</sup> August, 2023, the Applicants commenced legal action against her claiming for the reliefs in the originating process. It was stated that this Court is yet to grant new letters of administration.
- 5.6 The Respondent indicated that on 8<sup>th</sup> September, 2023 she received a call from Davy Muyuya that one of the cows at the village had been slaughtered after it gave birth and looked weak. The Respondent was asked to go with the entire family to get the carcass before the meat went to waste.
- 5.7 The Respondent indicated that she consequently informed her daughters and one of them namely Lubona Muyuya told the Respondent that she had also informed the 1<sup>st</sup> Applicant about what had transpired. The 1<sup>st</sup> Applicant indicated that he would inform the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants but none of them made efforts to get in touch or decide to collect the carcass.
- 5.8 The Respondent indicated that fearing that the meat would go to waste she decided to collect the carcass and safely

kept the meat in the deep freezer at her home. Consequently, she stated that upon being advised by her advocates, and upon her belief that in the absence of the substantive administrator, this Court has power to appoint an administrator Ad Colligenda Bona to deal with the perishable assets of the deceased to avoid waste.

5.9 It is on the said premise that the Respondent is seeking the indulgency of the Court to grant her letters of administration Ad Colligenda Bona to deal with the meat under her custody according to the law and to make any other order the Court may deem fit for purposes of preservation and or deposal of the said meat.

5.10 At this point I wish to state that I shall not go into delve into the skeleton arguments for the reason that will she shown in the determination of the said applications herein.

## **6.0 AFFIDAVIT IN OPPOSITION TO SUMMONS TO SET ASIDE ORGINATING PROCESS AND SUMMONS FOR FRANT OF AD COLLIGENDA BONA**

- 6.1 The affidavit was file on 23<sup>rd</sup> November, 2023 by Larry Njungu as Counsel seized with conduct of this matter.
- 6.2 It was averred that on 23<sup>rd</sup> August, 2023 the Applicants commenced against the Respondent vide the originating summons and affidavit in support, list of authorities and skeleton arguments and the same were duly served on the Respondent on 25<sup>th</sup> August, 2023 wherein the Respondent confirmed receipt of the same.
- 6.3 The Applicants submitted despite been duly served, the Respondent has ***until now not entered appearance nor given notice thereof***. It was further stated that despite not entering appearance, the Respondent on 7<sup>th</sup> September, 2023 proceeded to apply for setting aside the Applicants Originating process for irregularity and on 13<sup>th</sup> October, 2023 filed for an order for the grant of Ad Colligenda Bona pending the full grant of letters of adminisitation.
- 6.4 It has been observed by the Applicants that the Respondent in her arguments to set aside the originating process for irregularity, has asserted the misspelling of her

late husband's name with the letter 'u' instead of 'a' as the basis of not knowing who the Applicants have sued herein.

6.5 The deponent has averred that this misspelling was just a one-off innocent mistake and a mere typographical error on his part.

6.6 Further that before the Court could pronounce itself of that application, the Respondent made a further application on 13<sup>th</sup> August, 2023 made expert for an order for grant for Ad Colligenda Bona.

6.7 Therefore, the deponent has submitted that on behalf of the Applicants, they have opposed to the said summons being set aside for irregularity and oppose the granting of an order for Ad Colligenda Bona on the strength of the arguments in the skeleton arguments in support of this affidavit.

## **7.0 SEKELETON ARGUMENTS IN SUPPORT OF AFFIDAVIT IN OPPOSITION**

7.1 The Applicants have reiterated the averments in the affidavit in support being that the Respondent did not enter appearance first before proceeding to apply for

setting aside the Applicant's Originating process for irregularity. And that paradoxically that even before the Court pronounced itself on that earlier application to set aside the originating process, the Respondent again made another application seeking a grant of Ad Colligenda Bona.

7.2 The Applicants submit that they are embarrassed and confused on the Respondents subsequent application for order of Ad Colligenda Bona which is relying on the same originating process wherein she has requested the Court to annul or dismiss for irregularity.

7.3 The Applicant submit that they do not know if the said application is now a waiver by the Respondent of their initial application to set aside the originating process issued out in this matter.

7.4 The Applicants have submitted the in the application made by the Respondent to set aside the originating process for irregularity, they have opposed the said application on the basis that the Respondent has failed, refused and or neglected to enter appearance.

- 7.5 The Applicants allege that looking at what has been raised in the main matter wherein the Respondent has been cited as an intermeddler for mismanaging the estate in issue; the said assertions make her unfit for the relief being sought Ad Colligenda Bona. Further that the said relief being sought should not be granted as per section 37 of the Intestate Succession Act cited for the reason that the Respondent is biased to her biological children to the exclusion of the Applicants who are her step children but then again who are the biological children to the deceased whose estate is in issue.
- 7.6 The Applicants have argued in summary that the Respondent ought to have entered appearance in order to be heard on her two applications herein as supported by the finding in the case of ***African Banking Corporation Zambia vs. Mubende Country Lodge Limited, SCZ Appeal No 116/2016 (March, 2020)***<sup>1</sup> wherein it was stated that entering appearance amounts to a notice of intention to defend which in our jurisdiction is expressed as filing a memorandum of appearance.

7.7 Therefore, failure to do as stated in the cited case amounts to be a breach of the law under order 11 rule 22 of the High Court Rules Chapter 27 of the laws of Zambia. Order 22 reads;

***“The parties served with an originating summons shall, save as otherwise provided, before they are heard, enter appearances, and give notice thereof. A party so served may appear at any time before the hearing of the summons. If he appears at any time after the time limited by the summons for appearance he shall not unless the Court or Judge shall otherwise order, be entitled to any further time for any purpose, than if he had appeared according to the summons.*”**

7.8 It has been submitted that the net result of the failure by the Respondent to enter appearance is that she is precluded from making any application in this matter without first entering appearance.

7.9 The cited provision of the law makes it a pre-requisite for the Respondents to first enter appearance before taking any other step. Consequently, the Respondent's application to set aside originating process and for the order to grant Ad Colligenda Bona cannot be allowed.

7.10 Further it was submitted that the time frame given in the originating summons was 14 days which has since lapsed. Further and contrary to the cited provision and case law herein, the Respondent has failed to comply to the mandatory requirement to enter appearance and file an affidavit in opposition to the originating summons herein. Reference is being made to the case of ***Intelligent Mobility Solutions vs. Lamise Trading Limited (Appeal No 214/2022) delivered on 28<sup>th</sup> and 29<sup>th</sup> of August, 2023***<sup>2</sup>. Where it was restated that the mandatory requirement is, enter appearance for a party served with an originating summons before the date of the hearing.

7.11 The Applicants submitted that the record does not show an exemption of time granted to the Respondent by this Court to enter appearance. The Respondent thus remain

in breach of this mandatory rule to enter appearance whose consequence is to refuse her the right to be heard on any subsequent application.

7.12 The Applicants now submit that the irregularity complained of, is, but a simple typographical error in the name of Mayuya which was wrongly spelt as Muyayu; it does not affect the proceedings at all and neither does it cause prejudice to the Respondent.

7.13 The Applicants contend that as opposed to the assertion that the Respondent does not know who has been sued in this cause, it has been submitted that all the other names of the Respondent are actually correctly mentioned as Mirriam Musongo save for her husband's name. Further that her address was correctly stated wherein she actually even was personally served and she indeed did receive the originating process.

7.14 It has been thus concluded that the Respondent cannot feign that she does not know who is being sued especially that the facts disclosed are such that they are exclusively

existing between herself and the Applicants wherein she can clearly identify herself with these facts.

7.15 It has been stated that the Respondent knows that the suit is against her, that it was issued at the instance of her three step children; whose rights arise from the estate of the late father, as her husband. The late husband being the biological father of the Applicants with whom she lived with before in the matrimonial home. This fact has been aptly admitted in paragraph 3 of her affidavit in support of summons to set aside originating summons that the suit is in fact against her when she stated;

**“That on 23<sup>rd</sup> August 2023 the Applicants commenced legal action against me seeking certain reliefs from the estate of my late husband Donald Davies Muyuya.”**

7.16 It has been submitted that the Respondent an equivocally admitted that she knew that the suit is against her and relates to the estate of her late husband which is the subject of this matter *in casu*.

7.17 Further that the Respondent identifies herself with the facts when she applied for Ad Colligenda Bona particularly in paragraphs 4 to 7 of the affidavit in support of the said application. The said paragraphs show that she knows without any single doubt that the suit instituted by the Applicants is against her and hence using the same suit and facts contained in the originating process to apply for a grant of Ad Colligenda Bona.

7.18 Consequently, the Applicants contend that the temporal order of letters of administration to the Respondent is seeking for must fail as the same would invariably affect the main matter wherein the Applicants are alleging that she has intermeddled in the estate of the deceased to the exclusion of the Applicants. Conversely, the Applicant instead submit that it should be them who should be granted the grant of letters of administration as beneficiaries of the estate.

7.19 The Applicants further have submitted that the provision cited by the Respondent to set aside the originating summons being the white book do not apply to family

matters as stated in Order 1 editorial notes which reveal that the Rules of the Supreme Court of England do not apply to family proceedings which is the realm under which this matter squarely falls.

7.20 Consequently, it has been stated that the application to set aside the originating process issued out in this matter is incompetently before this court and procedurally inappropriately brought since the rules don't apply to cases of this nature and are purely family proceedings.

7.21 In light of the cited case law which I shall not restate here but to which noted, the provision of the law Courts jurisdiction to set aside the Originating process bordering on family proceedings is not conferred by order 2 rule 2 of the Rules of the Supreme Court, but the Respondent has entirely relied on it. The Court has thus been urged to dismiss the application forthwith for lack of jurisdiction and or procedural impropriety.

7.22 Finally, it has been submitted that the irregularity complained of, is not fatal and therefore curable based on

the case of ***Leopold Walford (Z) Limited vs Unfreight (1985) ZR 283<sup>3</sup>***, where in the Supreme Court held:

***“ As a general rule, breach of regulatory rule is curable and not fatal, depending upon the nature of the breach and the stage reached in the proceedings.”***

7.23 In this case *in casu*, trial has not commenced neither have the orders for directions been issued, thus it is still ripe for the Applicants to cure the irregularity complained of.

7.24 I shall not look into the Reply and supporting skeleton arguments by the Respondent as leave to file the said affidavit in reply was not sought and the same was expunged from the record

## **8.0 HEARING**

8.1 At the hearing of the matter Mr. Chilengala in submitting for the Respondent relied on the Affidavit in Support and the Skeleton Arguments as analysed above.

8.2 It was submitted for the Applicants that the two applications by the Respondent are incompetent and

irregular for the reasons already stated in the affidavit and skeleton arguments herein and should be dismissed.

## **9.0 DETERMINATION AND DECISION**

9.1 Let me begin by addressing the Applicant's contention that the Respondent did not enter appearance. The Applicants have argued that the Respondent ought to have filed its intention to defend before relying on the procedure under **Order 2 rule 2 of the Rules of the Supreme Court White Book** for the first application and even for the second application made pursuant to section 37 of the Intestate Succession Act.

9.2 In addressing the law on Conditional Memorandum of Appearance, it is necessary to look at what the law was prior to the enactment of Statutory Instrument No. 58 of 2020. Prior to the passing of S.I 58 of 2020, Order XI rule 1 of the High Court Rules provided as follows:

*(1)(i) A defendant shall enter appearance to a writ of summons by delivering to the proper officer sufficient copies of memorandum of appearance in writing or electronically dated*

*on the day of their delivery, and containing the name of the defendant's advocate or stating that the defendant is defending in person. The defendant shall at the same time deliver to the proper officer sufficient copies of the defence and counterclaim if any:*

*Provided that no appearance shall be accepted after entry of Judgment in default of appearance;*

*(2) A memorandum of appearance not accompanied by a defence shall not be accepted.*

*(3) The proper officer shall seal the memorandum of appearance and defence and shall return the copies to the person filing them for service upon the Plaintiff.*

*(4) Any person served with a writ under Order VI of these rules may enter conditional appearance and apply by Summons to the Court to set aside the writ on grounds that*

*the writ is irregular or that the Court has no jurisdiction.*

9.3 The Supreme Court in the case of ***African Banking Corporation Zambia v Mubende Country Lodge Limited Appeal No. 116 of 2016<sup>4</sup>*** gave guidance on the circumstances to be considered when deciding whether to proceed by filing a Conditional Memorandum of Appearance or by making an application under Order 14A of the White Book. The Court stated as follows:

***“The filing of a conditional memorandum of appearance without a defence is only applicable in circumstances where a defendant wishes to contest the validity of proceedings with a view to set aside the writ. This is governed by Order 11 rule 4 of the High Court rules. Other than what is envisaged in Order 11 rule 4, a conditional appearance can never be extended or over stretched to constitute a notice of intention***

***to defend in the context of an application under Order 14A of the White Book which is intended to finally determine a matter without a full trial of the action.”***

9.4 However, **Order 11 Rule 1 of the High Court Rules** was amended by **Statutory Instrument No. 58 of 2020** which provides as follows:

*Order XI of the principal Rules is amended by the deletion of Rule 1 and the substitution therefor of the following:*

*1.(1) A defendant shall enter appearance to a writ of summons by delivering to the proper officer, in writing or electronically, sufficient copies of the—*

9.5 It is clear from the above provision that the requirement for entering Conditional Memorandum of Appearance by the Defendant has been done away with.

9.6 The Applicant's argument in the case at hand is that the application to set aside the originating summons for irregularity and the application for a grant Ad Colligenda

Bona pending full grant of letters of Administration should be dismissed for failure by the Respondent to first enter appearance and file her opposition and or any other application. This is on the basis of the law under the current order 11 rule 1 of the High Court Rules Statutory Instrument No. 58 of 2020, which prescribes that there is not requirement for entering of a conditional memorandum of appearance.

9.7 Therefore what the aforesaid entails is that, if the Respondent wished to apply to court for setting aside the originating processes and the grant Ad Colligenda Bona herein on grounds that the originating process is irregular and the grant to deal with perishable assets of the deceased be granted, the Respondent had to do so firstly, by entering a memorandum of appearance and file an affidavit in opposition in accordance with the current order 11 (1) (a) and (b) and promptly make the necessary application(s) to challenge the originating process and or get the grant Ad Colligenda Bona.

9.8 It thus follows, therefore, that for purposes of challenging the originating process for being irregular and for requesting to be granted the Ad Colligenda Bona, the filing of the opposition would not amount to a fresh step taken to waive the irregularity, as the law requires that there must be an entry of appearance and filing of an opposition on the record before an application to challenge the originating process can be made. Reference is made to the case of ***Yangts Jiang Enterprise Limited (In Receivership) vs Society House Development Company Limited Appeal No. 064 of 2022 delivered on 21<sup>st</sup> February, and 5<sup>th</sup> April 2023<sup>5</sup>*** wherein the Court of Appeal had the following to say;

***‘In the view that we have taken, the ground of appeal succeeds, it therefore follows that the ruling by the learned Judge in the Court below, dismissing the Appellants application to set aside conditional appearance was wrong and as***

*such is accordingly set aside.*

*Consequently, the learned Judge erred when he proceeded to hear the Respondents application to set aside the writ when he had not determined the Appellant's application on the mode of appearance. The effect that the setting aside will have is that it invalidates the subsequent proceedings on the Respondent's application to set aside the writ.*

*As regards the second issue, in view of the position we have taken in respect to the first issue, a defendant who has been served with the writ on grounds that the writ is irregular or that the court has no jurisdiction, when previously that defendant would have entered conditional appearance, now has no option but to enter*

***a memorandum of appearance and a defence.”***

9.9 I further looked into the reasons given by the Respondent for calling the originating process irregular as being the misspelling of her husband's name yet still the Applicants indicated that the other names of the Respondent and her address were actually correct. I agree with the submission by the Applicants that this may not be a grave error and I am fortified by the case of **JOHN MUGALA AND KENNETH KABENGA v THE ATTORNEY-GENERAL (1988 - 1989) Z.R. 171 (S.C.)** where it was stated that;

*“Even assuming, therefore, that the learned trial judge was correct to rule that the wrong party had been made the defendant, Order 14, especially at Rule 5(3), did not permit that the action should be summarily defeated by reason of non-joinder or misjoinder of parties.”*

9.10 The question raised by the Respondent that a wrong party was sued does not go to defeat the whole cause because this Court is at liberty to invoke the provisions of Order 14 of the High Court Rules Chapter 27 of the Laws of Zambia and allow the Plaintiff to amend and sue the right party.

9.11 Therefore, from the foregoing reasons and finding, the two applications by the Respondent are herein invalidated for having failed to first enter appearance and file the opposition as per the law cited. I hereby Order that the two applications be dismissed forthwith.

9.12 The Applicants are hereby ordered to make the necessary amendments identified herein by correcting the names from Mayuya to Muyuya in the originating process within 14 days of this Ruling and served on the Respondent promptly. And the Respondent is equally ordered to enter appearance and file their opposition within 14 days of being served with the amended Originating process.

10.0 I make no order as to cost

11.0 Parties informed of the right of appeal.

**Dated at Lusaka, this 15<sup>th</sup> day of May, 2024.**



**M.M.BAH-MATANDALA  
HIGH COURT JUDGE**

