

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

2024/HP/0028

BETWEEN:

CHITEKE KAPEPULA

PLAINTIFF

AND

MALAMA MUSHINGA



1ST DEFENDANT

MASITALA NANYANGWE

2ND DEFENDANT

Before the Honourable Ms. Justice S. Chocho, in Chambers.

For the Plaintiff: Mr. D.M. Bwalya Messrs Bwalya Sampa Legal Practitioners

For the Defendant: Ms. M. Mbulo & Ms. J. Lutangu Mesdammes Mbulo & Partners

EX-TEMPORE R U L I N G

UPON Hearing Counsel and UPON Reading the Affidavits in Support of Injunction, Opposition and Reply, the Lists of Authorities and Skeleton Arguments filed by the Plaintiff and Defendants herein.

The Plaintiff and the Defendant make several averments and admissions which I consider to be issues best suited for trial and not at stage of injunction application.

It is trite that this Court has discretionary power to grant the equitable remedy of an injunction. The law is clear and the authorities on the test that this Court is to apply when considering whether to grant an injunction or not. The cases of American Cyanamid Company and the famous case of Shell and BP Vs Conidaris are instructive.

I have considered the authorities provided by Counsel for the Plaintiff and the Defendants in arriving at my decision in this application.

I am indeed grateful for the skeleton arguments and oral submissions by Counsel.

I am convinced that the Plaintiff's claim is not vexatious and does in fact present a serious question to be tried. I am further convinced that an injunction is indeed desirable and necessary in this matter.

For the foregoing reasons, it is hereby ordered an Order of injunction restraining the Defendants either by themselves, their servants or agents or otherwise whosoever from remaining or continuing in occupation, trespassing, digging, building or working upon remaining extent of Lot No 11306/M situate at New Kasama, Lusaka (Subject Property).

Further I Order that the Plaintiff BE and IS also restrained from selling, developing or dealing with the Subject Property.

Both Parties are so enjoined until final determination of this matter or further Order of this Court.

Lastly, I note that the Defendants have since filed defence to the Plaintiff's claims. This entails that we can issue Orders for Directions. The Orders for Directions are so issued.


Matter is adjourned to the 9th May 2024 at 08:45 hours for Pre-Trial Scheduling Conference.

I expect that the Parties will fully comply with said Orders for Directions which will be deposited in the pigeon holes by close of business February 1st 2024.

Leave to appeal on the ruling of injunction is hereby granted.

Costs in the cause.

Delivered at Lusaka on 1st February, 2024.


S. CHOCHO
HIGH COURT JUDGE

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
01 FEB 2024
S. CHOCHO, J
P. O. BOX 50067, LUSAKA