

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)**

2024/HP/1517



BETWEEN:

LUBASI ZIEZO SIKANANU

APPLICANT

AND

PHOENIX RESEARCH INSTITUTE

RESPONDENT

Before: The Hon. Mr. Justice Charles Zulu.

*For the Applicant: Mrs. A. M. M. Mwale, Legal Aid Counsel,
National Legal Aid Board.*

*For the Respondent: Mr. A. Simutowe, of Messrs Chilao, Nyirongo,
Mwiinde Legal Practitioners.*

R U L I N G

Cases referred to:

- 1. Nyampala Safaris & Others v Zambia Wildlife Authority & Others (SCZ/A/179/2003.**
- 2. Watson Nkandu Bowa v Fred Mubiana & Another (2012) Vol. 3 Z.R. 165.**

Legislation referred to:

- 1. Supreme Court of England and Wales 1965 (White Book 1999 Edition).**
- 2. High Court Rules Chapter 27 of the Laws of Zambia.**

1.0 INTRODUCTION

- 1.1** This ruling is in respect of an application by the Respondent for a stay of execution of the judgment dated November 6, 2024,

pending hearing of an appeal to the Court of Appeal against a ruling dated August 5, 2025, dismissing the Respondent's application to pay the judgment debt in instalment. The application was made pursuant to Order 45 rule 11 of the **Rules of the Supreme Court of England and Wales 1965 (White Book 1999 Edition)** and Order III rule 2 of the **High Court Rules Chapter 27 of the Laws of Zambia**.

2.0 BACKGROUND

- 2.1 Following the delivery of judgment on November 6, 2024, in favour of the Applicant, the Respondent then applied for stay of execution of the judgment pending hearing of an application to liquidate the judgment debt in instalments. And by ruling dated August 5, 2025, the application to settle the judgment debt in instalments was denied.
- 2.2 The Respondent is now discontented with that ruling and has since filed an appeal before the Court of Appeal, hence the Respondent's present application.

3.0 THE PARTIES' AFFIDAVIT EVIDENCE

- 3.1 An affidavit in support of the application was deposed to by Aaron Simutowe, the Applicant's Advocate. The reasons stated for the application were that the Respondent had since launched an appeal to the Court of Appeal against the Court's ruling denying the Respondent's application to settle the judgment debt in instalments. According to him, the Respondent's appeal had high prospects of succeeding.

3.2 An affidavit in opposition was deposed to by Lubasi Ziezo Sikananu, the Applicant. He deposed that the Respondent did not deny owing him the sum of ZMW165,547.00, and that while the Respondent sought to liquidate the judgment debt in instalment, at the time of applying for the present application, no single installment had been paid towards the judgment debt. It was added that the Respondent provided no evidence to show that it intends to settle the debt.

3.3 He also observed that the Respondent had failed to furnish the Court's with its means.

4.0 THE PARTIES' ARGUMENTS

4.1 The parties filed their respective arguments. I will not belabor to summaries the same seriatim, suffice to state that I have considered the same in my determination.

5.0 DETERMINATION

5.1 I have carefully considered the application. The general criteria to be considered in determining this application was stated in the case of **Nyampala Safaris & Others v Zambia Wildlife Authority & Others¹** also cited by the parties, wherein the Supreme Court held:

5.1.1 ***A stay of execution is only granted on good and convincing reasons. The rationale for this is clear, which is that a successful litigant should not be deprived of the fruit of litigation as a matter of course. The application for stay of execution must therefore clearly demonstrate the basis on which such stay should be granted.***

5.2 And specifically, for a stay of execution pending appeal, the Supreme Court in **Watson Nkandu Bowa v Fred Mubiana & Another**² gave the following guidance:

5.2.1 ***In an application for stay of execution pending appeal, the considerations are: the prospect of the appeal succeeding and the irreparable damage if a stay is not granted and the Appellant's appeal succeeds.***

5.3 In the present case, in deciding whether to grant the stay of execution or not, I have had the opportunity to consider the grounds of appeal advanced. It is my considered opinion that there are no real prospects of success on appeal, especially that the Respondent plainly failed to meet the threshold for the grant of an application to pay the debt in instalments.

6.0 CONCLUSION

6.1 In the light of the foregoing, the application is dismissed with costs for lack of merit.

6.2 Leave to appeal is granted.

DATED THE 17TH DAY OF SEPTEMBER, 2025



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THE HON. MR. JUSTICE CHARLES