

**IN THE HIGH COURT OF MALAWI  
LILONGWE DISTRICT REGISTRY  
CIVIL APPEAL CASE NO. 8 OF 2006**

**BETWEEN**

**MR. CHAGUNDA MATIASI ..... APPLICANT**

**AND**

**MRS COLLETA PHIRI ..... RESPONDENT**

**CORAM : HON. JUSTICE NYIRENDA**

Counsel for the Applicant, Mr. Makono

Counsel for the Respondent, unrepresented

Court Reporter, Ms Z. Mthunzi

Court Interpreter, Mr. M. Gonaulinji

**JUDGMENT**

This is an appeal against the judgment of the First Grade Magistrate at Mchinji in a land dispute. As I see it the main ground of appeal is that the trial magistrate did not have jurisdiction to sit, hear and determine this matter involving as it does title to land more especially registered land. Counsel Makono has drawn the Court's attention to Section 39(2)

(a) of the Courts Act Cap 3:02 where it is explicitly stipulated that a subordinate court has no jurisdiction to deal with, try and determine any civil matter whenever the title to or ownership of land is in question. Yet this is exactly what was in question in the instant case. The whole case was about the land that the appellant leased which the respondent says belongs to her. The appellant contends that the land belonged to her ancestors from time immemorial.

Clearly the trial magistrate had no jurisdiction to handle this case. I believe this is as much as should be said for now to avoid commenting on any substantive issues that might arise in the event that the matter was taken up before the High Court. The proceedings before the trial magistrate were a nullity and are void.

The judgment of the trial magistrate is therefore set aside. The respondent is however at liberty to take up fresh proceedings before the High Court.

PRONOUNCED in Open Court at Mchinji this ..... day of June, 2008.

A.K.C. Nyirenda

**JUDGE**