

**IN THE MALAWI SUPREME COURT OF APPEAL  
29<sup>TH</sup> DAY OF OCTOBER 2008 AT BLANTYRE  
MSCA CIVIL APPEAL NO 54 OF 2008**

**BETWEEN:**

NICO GENERAL INSURANCE CO. LTD.....APPELLANT

-and-

THOMAS MUNYIMBIRI.....RESPONDENT

**CORAM: THE HON CHIEF JUSTICE**

The Hon Justice Singini SC, JA  
Mr Mzumara of Counsel for the Appellant  
Mr Mumba of Counsel for the Respondent  
Luckson Beni, official interpreter  
Mrs L. Kasasi, typesetter

**RULING**

*Singini J,*

The Court agrees that it has no jurisdiction to sit as a single member to determine the Appeal. The provisions of Section 7(b) of the Supreme Court of Appeal Act and the case authority of **Astra Pharma vs Adventist Health Services** (MSCA Civil Appeal No. 20 of 2005) clearly are to the effect that a single member of this Court

cannot sit to determine an appeal before this Court. I, therefore, make an order declining to hear the appeal.

On the question of costs for the day's attendance, both Counsel accept that these have arisen and that they should be awarded against the Appellant as the party that has wrongly moved the Court to sit in a manner where it had no jurisdiction. I agree with that position and I make the order of costs for the day's attendance against the Appellant.

**MADE** in chambers this 29<sup>th</sup> day of October 2008.

Justice E. M. Singini, SC, JA