

GOVERNMENT OF MALAWI  
JUDICIARY

IN THE HIGH COURT OF MALAWI  
PRINCIPAL REGISTRY  
MISCELLANEOUS CAUSE No. 55 OF 2016  
(*guardianship*)

IN THE MATTER OF s.11(a)(i) OF THE COURTS ACT  
and  
IN THE MATTER OF s. 38(1)(b) OF THE CHILD CARE PROTECTION  
AND JUSTICE ACT  
and  
IN THE MATTER OF GUARDIANSHIP OF AB (a female minor)

*Between:*

HILDA SOKO

and

AB (female minor)

and

ANDREW PULENI

LUWISA PULENI

APPLICANT

1<sup>st</sup> RESPONDENT

2<sup>nd</sup> RESPONDENT

3<sup>rd</sup> RESPONDENT

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**ORDER & DIRECTIONS**

(*Kamanga, J., 5<sup>th</sup> August 2016*)

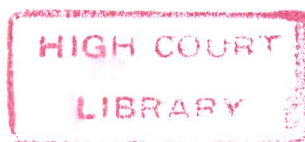
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UPON reading the *ex parte* notice of motion, the affidavit filed on 15<sup>th</sup> July 2016 in support of the motion taken under s 11(a)(i) of the Courts Act and the order for the appointment of guardian *ad litem* filed on 5<sup>th</sup> August 2016 under s 38(1)(b) of the Child Care Protection and Justice Act

THIS COURT FINDS that the order for the appointment of guardian *ad litem* filed under s 38(1)(b) of the Child Care Protection and Justice Act on 5<sup>th</sup> August 2016 is irregular and is dismissed as the court was never moved to consider appointing a guardian *ad litem* and never made an order that would cause the legal practitioners for the applicant to file such an order for issuing by the court;

NOTING that there is nobody who can objectively represent the interests of the minor in this matter and

CONSIDERING that the applicant is a foreigner who is not resident in Malawi,



This court makes the following preliminary ORDER and DIRECTIONS:

1. THAT this matter is to proceed by way of petition.
2. THAT the Principal Secretary in the Ministry of Gender, Children and Social Welfare of Lilongwe be and is hereby appointed guardian *ad litem* to the infant to be considered for guardianship;
  - a. That the guardian *ad litem* must be personally served with the notice, petition and this order within 7 days from the date hereof.
  - b. That the guardian *ad litem* must file a social welfare report in this matter within 30 days after being served with the notice and petition.
3. THAT the applicant must file and serve the guardian *ad litem* with the proof of birth of the minor within 30 days hereof.
4. THAT the notice, petition, this order and other supplementary documents must also be personally served on the parents of the infant within 14 days from the date hereof.
  - a. That each of the parents must express and file with the court their views in regard to the proposed guardianship within 30 days after being served.
5. THAT the Applicant must lodge with the Court, at the earliest convenience and not later than 90 days from the date hereof, a family and home evaluation report prepared by the government office responsible for social and/or child welfare of the country of her residence.
6. THAT the date for hearing the petition will be allocated once the Applicant files a schedule indicating compliance with the above directions.
7. THAT reasonable expenses that will be incurred in this matter, such as, the preparation of the social welfare and family and home evaluation reports, the attendance of the guardian *ad litem* and the infant at court are to be borne by the applicant.

Dated in chambers this 5<sup>th</sup> day of August 2016 at Chichiri, Blantyre.



Dorothy nyaKaunda Kamanga

JUDGE

*case information* :

Mr. Mwala	:	counsel for the applicant
Applicant	:	absent
Respondents	:	absent
Mr. Chitatu	:	Court Clerk