

**JUDICIARY  
IN THE HIGH COURT OF MALAWI  
PRINCIPAL REGISTRY  
CIVIL CAUSE NO. 40 OF 2017**

**BETWEEN:**

**THE REGISTERED TRUSTEES OF MINIBUS  
OWNERS ASSOCIATION OF MALAWI ..... CLAIMANT**

**-AND-**

**AJR & C GENERAL DEALWETRS ..... DEFENDANT**

**CORAM: THE HONOURABLE JUSTICE KENYATTA NYIRENDA  
Mr. Gondwe, of Counsel, for the Claimant  
Mrs. Annie Mpasu, Court Clerk**

---

**ORDER**

---

*Kenyatta Nyirenda, J.*

The present proceedings were commenced on 30<sup>th</sup> January 2017 by originating summons. The Claimant seeks, among other reliefs, a declaration/order that the Defendant’s act of collecting or levying toll fees from minibuses in the Plaintiff’s area of traffic management without authority from Blantyre City Council is illegal.

The Claimant also filed with the Court on the same day, that is, 30<sup>th</sup> January 2017, an ex-parte summons for an order of interlocutory injunction restraining the Defendant from collecting parking fee at Ryalls Hotel Stage in the City of Blantyre pending the determination of the main case or a further order of the Court. The summons came before Mbvundula J and he directed the application to come by way of inter-partes hearing.

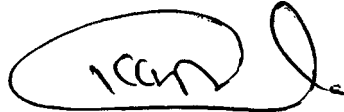
The Claimant has taken no other step in these proceedings since 30<sup>th</sup> January 2017. Order 12, r.56, of the Court (High Court) (Civil Procedure) Rules [Hereinafter referred to as “CPR”] comes into play where there is such non-action. The provision is couched in the following terms:

*“The Court may strike out a proceeding without notice, if there has been no step taken in the proceedings for 12 months.”*

In the present proceedings, more than 16 months have elapsed without the Claimant taking steps to prosecute this case. This is clearly an abuse of court process. I have no option but to strike out the proceedings herein. It is so ordered.

In light of the foregoing and by reason thereof, the Registrar’s attention is drawn to Order 12, r.58, of CPR.

Pronounced in Chambers this 14<sup>th</sup> day of June 2018 at Blantyre in the Republic of Malawi.

A handwritten signature in black ink, appearing to read 'KCN', enclosed within a large, loopy oval shape.

**Kenyatta Nyirenda**

**JUDGE**