



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL DIVISION

CIVIL APPEAL NUMBER 23 OF 2018

BEING CIVIL CAUSE NUMBER 164 OF 2016 IN THE COURT OF third
GRADE MAGISTRATE SITTING AT CHISENJERE

BETWEEN

URITA NKOLESHA..... INTENDED APPELLANT

AND

JESSY MKOLESHA.....INTENDED RESPONDENTS

Coram: The Honourable Justice Jack Nriwa, Judge
Mrs D Mtegha Court Clerk

ORDER

The intended appellant wanted to commence an appeal proceeding in this court. The appealing party filed in April, 2017 notice of together with the Court Record of the trial court. The matter was referred to me for the hearing of the appeal.

Looking at the record before me, the matter is not ready for appeal. As it is the hearing cannot proceed.

Order XXXIII of the Subordinate Court Rules provides for the requisites for commencing an appeal in the High Court. Under Order 33 rule :

(1) Appeals to the High Court shall be brought by giving notice of appeal in Form 26.

(2) The appellant may appeal from the whole or any part of a judgment, and the Notice of Appeal shall state whether the whole or part only, and what part, of the judgment is complained of.

(3) The Notice of Appeal shall be instituted and filed in the proceedings in which the judgment appealed from was pronounced and

shall be filed within fourteen days from the day on which such judgment was pronounced. At the same time the appellant shall pay the prescribed fee for such Notice.

(4) The Notice of Appeal shall be served by the appellant on all parties directly affected by the appeal or their legal practitioners respectively. It shall not be necessary to serve parties not so affected.

Order 33 rule 2 enjoins the ^{trial} court to provide the appellant with court record for the appellant to prepare preliminary documents for the appeal:

(1) When the appellant has complied with rule 1 the Court appealed from shall prepare the requisite number of copies of the record comprising the pleadings, the notes of evidence, the judgment appealed from, the documentary exhibits and any other relevant documents.

(2) As soon as the copies of the record are ready, the Court appealed from shall serve the appellant with a notice in Form 27.

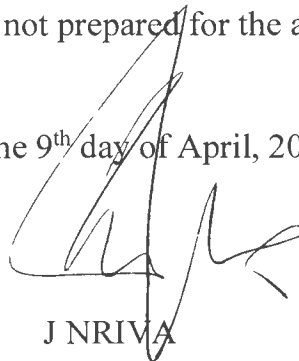
(3) Upon request by the appellant and upon payment by the appellant of the cost of preparing the record the Court shall supply the appellant with one copy thereof.

(4) Within fourteen days from the service upon him of the notice referred to in sub rule (2) the appellant shall prepare a Memorandum in writing setting forth the grounds of appeal and shall forward to the Court appealed from the number of copies of the Memorandum called for in the notice.

It does not appear that the appellant carried out these requirements. I dismiss the appeal. The appellant may recommence the appeal after sorting out the issues. s of now, the appeal remains dismissed.

It appears that the appellant was not prepared for the appeal.

Made in Chamber at Blantyre, the 9th day of April, 2017



J N RIVA
JUDGE