

MZUZU DISTRICT REGISTRY
HIGH COURT OF MALAWI
21 AUG 2018
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REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
MZUZU REGISTRY
CIVIL CAUSE NO. 146 OF 2017

BETWEEN:

GALIMOTO MHONE.....PLAINTIFF

-And-

PEARSON MAKWENDA.....1ST DEFENDANT
REUNION INSURANCE.....2ND DEFENDANT

CORAM: HH Brian Sambo, Ag. Assistant Registrar

Mathews Msiska, of counsel for the Plaintiff

Bridget Kumwenda, of counsel for the Defendant (Appearing on brief for Kawelo Lawyers)

Kachingwe, Official Interpreter

RULING ON APPLICATION FOR LEAVE TO AMEND PLEADINGS
(Order 20, r. 5. RSC)

The Plaintiff, through her lawyer, Mr. Mathews Msiska filed an application for leave to amend the Writ of Summons and his Statement of Claim pursuant to Order 20 r. 5. Of the Rules of Supreme Court.

The Defendants, while not objecting to the application above, asked the court to grant it to him with costs to them. They did not give reasons costs were to be synonymous in the circumstances.

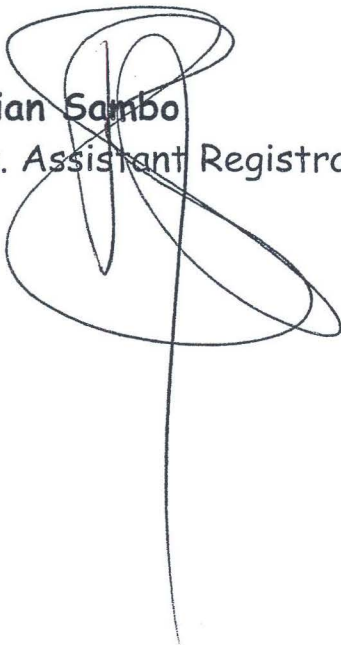
Counsel for the Plaintiff, vehemently, objected to the Defendants' proposition that such leave had to be granted with costs to the defence. He submitted that the Defence had, basically, incurred no costs as the matter had just began, and that there was no substantial filings from both sides.

I have thoroughly and carefully considered the costs application by the Defence and I am of the view that costs are still awardable in the circumstances but, only, to as far as the defence has incurred, and nothing more. The Plaintiff ought to have envisaged the amendments; especially omissions such as failure to include the motor vehicle owner are, in my view, envisageable, and hence the Defendants are entitled to indemnification as opposed to standard costs.

Otherwise leave to amend pleadings is granted to the Plaintiff.

Made in chambers today the 11th of January, 2018.

Brian Sambo
Ag. Assistant Registrar

A handwritten signature in black ink, consisting of several overlapping loops and a long vertical line extending downwards.