

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO.922 OF 1993

BETWEEN:

TAKONDWA L. MWASE PLAINTIFF

- and -

A.Y. MWENDA DEFENDANT

CORAM: MWAUNGULU, REGISTRAR

Kasambala, Counsel for the Plaintiff
Absent, Counsel for the Defendant
Manondo (Mrs), Court Clerk

O R D E R

On the 15th of July, 1993 the plaintiff took out this action against the defendant claiming damages for trespass to goods, conversion and defamation. There was also a claim for K100.00 professional allowances following a contract of employment between the plaintiff and the defendant. Judgment was obtained in default of notice of intention to defend on the 11th of August, 1993. Although there was a notice of intention to defend lodged with the Court, it was returned to the defendant on the 3rd of September, 1993 because judgment had already been entered. The notice of assessment of damages was set for the 13th of October, 1993. The defendant did not come. I ordered the defendant to pay K2,800.00 to the plaintiff.

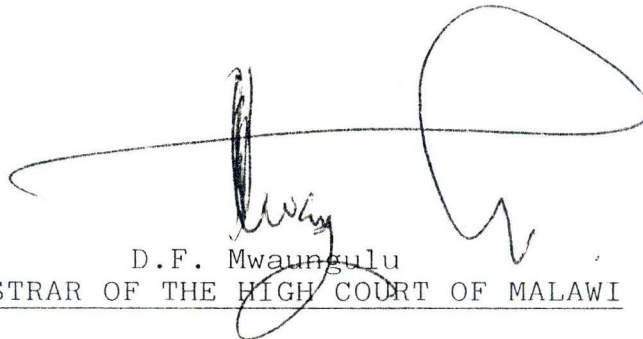
The plaintiff was employed by the defendant as a Secondary School teacher. The plaintiff was earning K700.00 per month and a responsibility allowance of K100.00. In March, 1993 the defendant refused to pay the plaintiff the sum of K100.00, the responsibility allowance. He advised the plaintiff to resign even without giving notice. The plaintiff did so by letter of 3rd April, 1993. When the defendant orally accepted the plaintiff's resignation, the defendant demanded from the plaintiff one month salary in lieu of notice. The plaintiff refused.

On the 3rd of April, 1993, the defendant, acting through his servants or agents, broke and entered the plaintiff's house. The defendant took away the plaintiff's dinning set valued at K1,200.00. There was a written demand to the defendant dated 31st May, 1993. The defendant still keeps the goods. He refused to surrender them to the plaintiff.

It is contended for the plaintiff that the manner in which the defendant conducted himself amounted to defamation for it indicated to the people around there that the plaintiff was owing the defendant money. It is contended that this has injured the plaintiff's credit and reputation.

The plaintiff is entitled to the K100.00, the professional allowances due to him by virtue of the contract of employment. The plaintiff is claiming for damages for trespass to goods as well as conversion. He cannot be awarded both. The damages he is entitled to are the cost of the dinning set at the time of conversion. This has been put at K1,200.00, the cost of acquiring them. I award the plaintiff the sum of K1,200.00. There is a further claim for damages for defamation. I award the plaintiff K1,500.00.

MADE in Chambers this 13th day of November, 1993 at Blantyre.



D.F. Mwaungulu
REGISTRAR OF THE HIGH COURT OF MALAWI