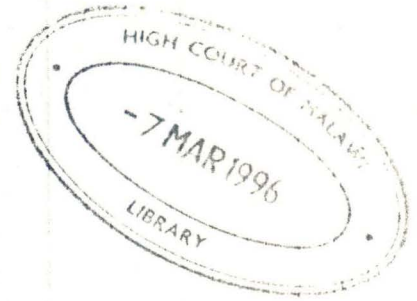


IN THE HIGH COURT OF MALAWI  
PRINCIPAL REGISTRY  
CIVIL CAUSE NO. 1041 OF 1994



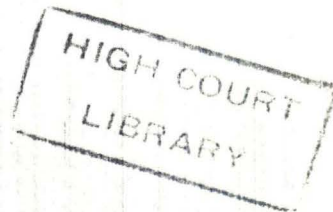
BETWEEN:

DAVIS ERIC MSONTHE ..... PLAINTIFF

- and -

THE ATTORNEY GENERAL ..... DEFENDANT

CORAM: Tembo, J.  
Msiska, Counsel for the Plaintiff  
Kamanga, Court Interpreter



J U D G M E N T

In this action, the plaintiff has sued the defendant for damages for false imprisonment. He has also claimed costs for the action. When the case was called for hearing, Counsel for the plaintiff informed the Court that the defendant had given notice to him to the effect that the defendant had withdrawn his defence in its entirety. Whereupon, Counsel for the plaintiff applied and submitted to the Court that judgment should be entered for the plaintiff. Having been satisfied, in terms of Order 21 r2 (2) (a) that the defendant had in fact withdrawn his defence, I, accordingly, entered judgment for the plaintiff and proceeded to assess damages to be awarded. I heard the plaintiff on oath, who told the Court that he was on or about 23rd October, 1989, employed in the public service, in the Ministry of Education; that he was then stationed at Blantyre at the Office of the District Education Officer (Rural); that on that date he was, on the instructions of the D. E. O. picked by the police to Blantyre Police station where he was imprisoned for 21 days; that the conditions in the police cells where he was so detained were very poor indeed, to say the least; and finally that at the end of the 21 days he was released, charged and acquitted of the offence of theft.

On damages, Mr. Msiska cited a number of case authorities for my consideration, including the following. Civil Cause No. 1069 of 1992 Z. Ziondetsa - V - Cold Storage, where I had awarded K30,000.00 for false imprisonment for 21 days. This award was made in 1994; Civil Cause No. 128 of 1982 D. M. Sindi - V - De Ross and Co., where Unyolo, J. had awarded K700.00 for imprisonment for 30 minutes; Civil Cause No. 153 of 1993 H Tembo - V - Industrial Development Group, where Chatsika, J. had

awarded K25,000 for false imprisonment for 4 days; Civil Cause No. 154 of 1988 Bill Juma - V - Altaf Gani, where Mkandawire, J. had awarded K10,000 for false imprisonment for 1 day.

In view of the foregoing case authorities, Mr Msiska then submitted that the Court should award damages in the sum of K200,000 partly to meet the devaluation in the strength of the Malawi Kwacha, since the dates of the making of the decisions referred to hereinbefore. Mr Msiska, however, rightly also submitted that the computation of damages was not a mere arithmetical equation, on the basis of the figures evident from the cases he had cited for my consideration, but rather that those cases ought to be regarded as only offering guidelines on the matter. I, therefore, award K45,000 for the false imprisonment. Costs are for the plaintiff.

MADE in Chambers this 26th day of October, 1995, at Blantyre.

  
A. K. Tembo  
JUDGE

