

IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NUMBER 1540 OF 1993

BETWEEN:

L A B MWITHA.....PLAINTIFF

AND

MALAWI BUREAU OF STANDARDS.....DEFENDANT

CORAM: Mbalame J

Chisambiro Counsel for the Plaintiff
Kaliwo Counsel for the Defendant

R U L I N G

By a ruling of this court dated the 19th of March, 1993, an originating summons for various declarations filed by the plaintiff was dismissed because the summons did not comply with orders 7 and 28 of the Rules of the Supreme Court. The plaintiff, on 5th May, 1993 purported to restore the action by filing a document entitled "Application to Restore Action". Nothing was done to amend the format of the originating summons which the Court had previously rejected and no acknowledgement of service form was attached to it as is required by order 7 Rule 2 of the Rules of the Supreme Court which clearly stipulates that

"Every originating summons (other than ex parte summons) shall be in form No. 8 or if so authorised or required in form No. 10 in Appendix A and every ex parte originating summons shall be in form No 11 in Appendix A."

Sadly, the plaintiff, as I have already observed has done nothing to reactify or put his pleadings in line with these rules. The Court cannot restore defective pleadings. The omissions on the part of the plaintiff is of a paramount nature and cannot be allowed in that form. I accordingly dismiss the

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application with costs. The plaintiff is at liberty to restore the action or commence a fresh one guided by the law and procedure prescribed.

Made in Chambers this 24th day of September, 1993 at Blantyre



R Mbalame
JUDGE