



IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NO. 14 OF 2019

BETWEEN:

DAMSON CHELEWANI..... CLAIMANTm

AND

UTM.....1ST DEFENDANT

DR. MICHAEL USI.....2ND DEFENDANT

CORAM: THE HON JUSTICE HEALEY POTANI

Mr. Mickeus, Counsel for the Claimant

Mr.Chokhotho, Counsel for Defendants

Mr. Mathanda, Court Clerk

RULING

On January 14, 2019, the claimant commenced these proceedings against the 1st defendant, UTM, one of the political parties geared to contest in the tripartite elections to be held in the country in May, 2019, seeking some declarations and orders regarding the declaration by UTM to the effect that Dr. Michael Usi is its parliamentary elections candidate for Mulanje Central Constituency. Simultaneous to the commencement of the action, the claimant made an *ex parte* application for an interlocutory injunction restraining the UTM from effecting its decision to declare Dr. Michael Usi as its parliamentary elections candidate for Mulanje Central Constituency. The court, however, directed that the application should be heard *inter partes*. Subsequently, Dr Michael Usi made an application which was readily

granted, to join the matter as 2nd defendant. The court now proceeds to make its determination on the claimant's application.

There are a number of sworn statements filed by the parties in aid of their respective cases. The concise pertinent facts, as they emerge from the sworn statements, are that the claimant and the 2nd defendant were among those vying to contest in the forthcoming tripartite elections in the Mulanje Central Constituency under the banner/ticket of the UTM party. In line with the party's governing rules, primary elections had to be conducted in order to come up with one candidate who would stand on the party ticket. There is no dispute that the agreed date for the elections was January 3, 2019. The point of departure is that it is alleged by the claimant the elections were to be held at Chisitu Primary School and he went there to contest but the 2nd defendant did not show up as he was reportedly at Ntenjera Magistrate's Court where parallel elections were being held. According to the claimant, when this anomaly came to light, the party authorities entrusted to conduct the elections ordered that the elections be suspended to another date in order to resolve the issue of the venue. It is therefore the case for the claimant that no primary elections having taken place, an injunction order as prayed for be granted restraining the 1st defendant from declaring the 2nd defendant as its candidate and that an order be made directing the 1st defendant to conduct primary elections within 4 days. On the part of the defendants, it is averred and contended that the venue of the elections was Ntenjera and that the 2nd defendant being the only candidate who availed himself, he was declared as the party's torch bearer in line with relevant provisions in the party's governing rules/constitution hence the prayer for the injunction by the claimant is baseless and must be dismissed. The defendants have also implored the court not to entertain the claimant's case as he has rushed to the court before exhausting the

