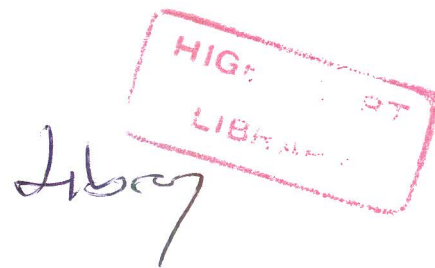


**Duplicate**



Republic of Malawi  
**IN THE HIGH COURT OF MALAWI  
PRINCIPAL REGISTRY  
CIVIL CAUSE NO. 158 OF 2010**

**BETWEEN**

**EDGAR NAMAKHWA**

**PLAINTIFF**

**AND**

**AGASON MOTORS**

**DEFENDANT**

**Coram : Matapa Kacheche Assistant Registrar  
Masanje For the Plaintiff  
Kauka for the Respondent**

**ORDER**

1. Let me start by apologising for the delay in delivering this order. When the parties came in the morning I still had a few issues to clarify in the order and I had to ask them to come back at 3 p.m. thereby really inconveniencing them.
2. This is the summons on the part of the plaintiff to have the order of stay of execution and leave to appeal out of time be set aside on the grounds that the same was obtained through misrepresentation of facts, that there were no proper grounds for granting it and that there is inordinate delay in having the appeal prosecuted.
3. On 9<sup>th</sup> July, 2015 my brother Assistant Registrar Mdeza issued an order on assessment of damages following a judgment by Potani J on liability dated 17<sup>th</sup> February, 2015. On 13<sup>th</sup> July 2015 the order was served on the defendant.
4. There is dispute as to whether the defendant was present or not when the order on assessment of damages was being delivered. I must point out that this dispute came out only after the plaintiff attempted to have the affidavit amended.
5. My observation is that in the affidavit in support the plaintiff indicated that it was when his lawyers came to inquire that they were informed that the order was ready but was awaiting

