

MALAWI JUDICIARY
IN THE HIGH COURT OF MALAWI
 PRINCIPAL REGISTRY
LAND CAUSE NO. 44 OF 2014

BETWEEN

JOHN WILSON ZAMMIMBA **PLAINTIFF**

and

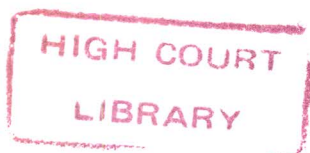
MRS CHARITY WILSON **1ST DEFENDANT**
 MRS IRENE MALUNGA **2ND DEFENDANT**
 MRS BEAUTY NDALAMA **3RD DEFENDANT**
 MRS FANNY KALUNGA **4TH DEFENDANT**

CORAM : **HIS HON. N. USIWA USIWA**..... **DEPUTY REGISTRAR**
 Mr. Nyambo of Counsel for the Plaintiff
 Miss Mr Malijani of Counsel for the Defendant
Mr. M. Kakhobwe **Official Interpreter**

ORDER ON SUMMARY POSSESSION OF LAND

This is an order on summary possession of land under **Order 113 r.1 of the Rules of the Supreme Court**. In its simplest form this is a dispute between a father and his four daughters over a house in Chimbba.

According to affidavit evidence, the father, who is the Plaintiff took out summons under 0.113 r.1 of the Rules of the Supreme Court claiming for possession of title number Michiru 65/70 comprising 0.7339 hectares of leasehold land at Chirimba in Blantyre.



He said he built this house with his own resources as a retired Civil Servant in 1982. The Defendants, he says are children of his former wife, NALESI.

He further avers, among other things, that before he married NALESI who was then his girlfriend he was already staying in Chitawira with his late wife ELLA MBITE who passed away while he was still in Chitawira and later opted to marry NALESI.

He also states that he secured the plot in question while married to ELLA MBITE and that when he was constructing the house on the plot in Chirimba, not even NALESI nor the Defendants knew anything that he was building the house. It was his other wife JOYCE MASANGANO who was staying in Bangwe who would know anything about it, he said.

It was in 1982, he says, after his retirement, that he disclosed to NALESI and her Defendant daughters that they should relocate to Chirimba.

It was in 1999 and due to marital problems that the Plaintiff left the matrimonial home and married another woman in Bangwe and that he does not want to sell this house.

THE DISPUTE arises when the Plaintiff states in his affidavit that he first sued his daughters at the magistracy for a Protection Order when the daughters started denying the Plaintiff father access to the house in question. This was after the plaintiff told them to leave the premises for wanton cutting down of trees.

THE DEFENDANTS on the other hand led by Charity who first denies marrying a Chilombo. She contends that she, her mother and sibling have contributed much to the house in dispute. However, it was the plaintiff father in 2011 on his own

