



**JUDICIARY
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL APPEAL NO. 30 OF 2015**

BETWEEN:

NAMALETA CHIMPHEPO 1ST APPELLANT

DOMINICO CHIMPHEPO 2ND APPELLANT

-VS-

BURTON KACHIZA RESPONDENT

CORAM: THE HONOURABLE JUSTICE KENYATTA NYIRENDA

Mr. Wame, Counsel for the Appellants

Mr. Ulaya, Counsel for the Respondent

Ms. A. Mpasu, Court Clerk

ORDER

Kenyatta Nyirenda, J.

This is the Respondent’s Summons for an order setting aside an order of stay of execution pending appeal [hereinafter referred to as the “Respondent’s Summons”].

The facts leading up to the Respondent’s Summons can be briefly stated. The Respondent commenced his suit in the Second Grade Magistrate Court Sitting at Chikhwawa (lower court), being Civil Cause No. 112 of 2014, complaining that the Appellants were in unlawful possession of his land. On 18th February, 2015, the lower court delivered its judgment in favour of the Respondent and it ordered the Appellants to vacant the said land. On 29th May, 2015, the Appellants were granted an order staying execution of the judgment of the lower court pending the hearing and determination of the appeal against the decision of the lower court [hereinafter referred to as the “Stay Order”]. The Stay Order was granted subject to the following two conditions:



