



MALAWI JUDICIARY



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

LAND ~~CIVIL~~ CAUSE NO. 31 OF 2016

BETWEEN:

SMOLET KACHERE.....PLAINTIFF

-AND-

BERTHA MASIKU.....DEFENDANT

ILLOVO SUGAR MALAWI LIMITED.....OCCUPIER

CORAM.	TAMANDA C. NYIMBA	: Assistant Registrar
	K. Mapemba	: Counsel for the Plaintiff (Absent)
	W. Hara	: Counsel for the Defendant (Absent)
	W. Kalua	: Counsel for the Occupier (Absent)
	Mrs. Phombeya	: Court Clerk

RULING ON APPLICATION FOR SUMMARY POSSESSION OF LAND

UNDER ORDER 113 OF THE RULES OF THE SUPREME COURT

1. INTRODUCTION

1.1. On 8th March, 2016 the plaintiff herein brought an originating summons for summary possession of land under Order 113 of the Rules of the Supreme Court. In support of the application is an affidavit sworn by the plaintiff. The defendant resists the application. She has sworn an affidavit in opposition. There is a further affidavit in reply to the affidavit in opposition again sworn by the plaintiff.

1.2. Counsel for both parties filed written skeleton arguments and bolstered the same with oral submissions. As regards the Occupier, its Counsel addressed the court and submitted that to the extent that the Occupier is a party to these proceedings the same is a misconception and inconsequential because the Occupier, being a tenant of the defendant, will automatically be bound by whatever outcome befalls the defendant.

2. FACTUAL BACKGROUND AS SET OUT IN THE PARTIES' AFFIDAVITS



