



IN THE HIGH COURT OF MALAWI

MZUZU DISTRICT REGISTRAR – SITTING AT CHITIPA

CIVIL DIVISION

CIVIL APPEAL CAUSE NO. 42 OF 2017

(Being Civil Cause No. 526 of 2015 before FGM Chitipa)

BETWEEN

MESTON MULENGA..... APPELLANT

-and-

ANOCK KANYIKA..... RESPONDENT

CORAM: THE HON. JUSTICE T. LIGOWE
 Appellant present/unrepresented
 Respondent present/unrepresented
 Mrs. F. Luwe Official Interpreter
 Mrs. R. Luhanga Court Reporter

JUDGMENT

I will give directions as to how this matter should proceed:-

1. I see no fault in the Magistrate deciding that because the witnesses who testified before him, gave hearsay evidence because they were not present when the boundary was demarcated between the Appellant's father and the Respondent's brother, he was going to visit the place, ask

each of the parties to indicate the boundary according to their knowledge and he would make a new boundary between, four meters wide, two meters on each side.

2. The Appellant's appeal is that the Magistrate did not do what he said when he went to see the place.
3. The direction is that the District Lands Officer should visit the place with his team and do what the Magistrate was supposed to do.
4. No new evidence will be taken. Mr. Meston Mulenga will show his boundary and Mr. Anock Kanyika will also show his boundary. The Lands officer will take the line between as a boundary and take two meters from each side to make a path four meters wide. Certainly the boundary for Meston Mulenga will run from the tree on the road side to the two blue gum trees his father planted near the anti-hill down at the *dambo*. Mr. Anock Kanyika's boundary will run from the tree on the road side down to the two trees Mr. Mulenga's father planted at the *dambo*.
5. If he can, the Lands officer should do this within 30 days from today.
6. Made in Open Court this 28th day of November 2018.


T. Ligowe
JUDGE