

**IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NO. 1488 OF 1999**

BETWEEN:

SHIRE LIMITED.....PLAINTIFF

- and -

RIMO SUPPLIESDEFENDANT

- and -

Z. ISMAIL.....CLAIMANT

CORAM: JUSTICE W. M. HANJAHANJA

Mwala of Counsel for the Claimant

Kauka of Counsel for the Plaintiff

Mankhanamba, Official Interpreter.

ORDER

This is an interpleader application in which the claimant complains that her motor vehicle registration KA 2021, a Toyota Corona Saloon was wrongly seized by the Sheriff for sale

to clear off a debt which Rimo Supplies, the defendant, owes Shire Limited, the plaintiff.

Her story is that the defendant, her husband is the sole owner of Rimo Supplies. His company owes the defendant quite a substantial sum of money.

According to her, the vehicle was bought for her by her sons and registered in her name on 25th June 2002. Her testimony is that the Sheriff seized it on 20th June 2002. It is her view that the Sheriff seized the vehicle under mistaken belief that the motor vehicle belonged to her husband. She says he has at no point owned the motor vehicle. She argues that it was wrong and illegal to seize her vehicle in respect of her husband's debt. She is not a partner or a co-owner of the company.

A photocopy of the Blue Book (Registration Book) for this vehicle is attached to her affidavit as an Exhibit. It is endorsed "DUP" meaning a duplicate. The year of make is 1992 which means by 25th June 2002, this car was 10 years old. The Road Traffic Department's stamp shows it registered the vehicle in the name of the claimant on 25th June 2002 some 10 years later after year of make. A policy of the motor vehicle insurance was issued for the same car by United General Insurance Company Limited on 2nd January 2001 again in the name of the claimant to commence on 1st January 2001 and expire on 31st December 2001. As can be seen from these dates this happened long before the vehicle was registered by the Department of Road Traffic into her name.

The policy was renewed by Prime Insurance Company Limited for a period from 2nd January 2002 to 1st January 2003. This policy shows that the year of manufacture for the vehicle is 1994 giving a difference of two years from the year of make endorsed in the duplicate copy of the Registration Book. Both insurance policies have been attached to her affidavit as exhibits.

The first observation I want to make is that there is a noticeable difference in the year of manufacture or year of make for this vehicle between the endorsement in the Registration Book which is 1992 and the insurance policy which is 1994.

The question I must ask myself is, are these two documents stating about one and the same car? The answer is obvious. They are not. One document is referring to 1992 as year of make, the other as 1994. Secondly, if this vehicle was registered in her name on 25th June 2002, why was a policy for the same car issued earlier on 2nd January 2001, in her name before she became the registered owner thereof? Am I dealing with genuine documents? I think not.

Finally, it struck me as strange that a vehicle that was manufactured in 1992 or 1994,

whichever is the case, does not show who the previous owners were in the Registration Book all the way up to 25th June 2002. This was an old vehicle going by these dates. If she got it in June 2002 someone must have owned it before her. I find it incredible that for a period of 10 years, there is no evidence of ownership by another person until she became the first owner as portrayed in the Registration Book. The inference I draw here, is that the Registration Book is a false document. If indeed her sons bought this vehicle for her, I would have expected them to testify and support her story. They have not. In the final analysis, I put no evidential value to her claim. This application is made to frustrate the plaintiff from realizing the fruits of its judgement which it lawfully obtained. I hold, therefore, that she does not own this vehicle. The Sheriff should proceed with the sale of the vehicle until a true owner, if at all, claims it.

This application is dismissed with costs

MADE IN CHAMBERS this day of 21st January 2003.

W. M. Hanjahanja

JUDGE