

**IN THE HIGH COURT OF MALAWI  
LILONGWE DISTRICT REGISTRY  
CIVIL CAUSE NO. 643 OF 2014**



**BETWEEN:**

**RUDOLPH MINJEMU PHIRI-----PLAINTIFF**

**AND**

**RAYMOND MZINGERI JERE-----1<sup>ST</sup> DEFENDANT**

**(Suing on behalf of King Zwelitini Jere, Minor)**

**ATTORNEY GENERAL-----2<sup>ND</sup> DEFENDANT**

**CORAM: HON. JUSTICE M.C.C. MKANDAWIRE**

**Makono, Counsel for the Plaintiff**

**Wawanya, Counsel for the Defendants**

**Itai, Court Interpreter**

**RULING**

This is an inter-partes application for an order to stay execution of judgement pending appeal. The application is supported by a statement under oath made by counsel Enock D.A. Chibwana who represents the applicant. The respondents' counsel Khumbizeni Wawanya filed a statement under oath opposing the application.

Order 59 of the Rules of the Supreme Court gives this court the power to stay execution of a judgment pending an appeal. The power as to whether to stay a judgment or not is a discretionary one. The court will however grant such a stay where there are special circumstances of the case requiring the court to do so.

I have gone through the sworn statements in support of the application. All that the applicant is stressing on is that the appeal has got high prospects to succeed without really pointing out any special circumstances to persuade the court to

grant the stay. The applicant has not even shown the court if they would suffer any damages if the stay is not granted.

I therefore find no merit in granting the stay here and I dismiss the application with costs.

**MADE THIS      DAY OF NOVEMBER 2016 AT LILONGWE**

**M.C.C. MKANDAWIRE**

**JUDGE**