

IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT LUSAKA
(Civil Jurisdiction)

SCZ APPEAL NO. 63/99

BETWEEN:

DR. K.D. KAUNDA

APPELLANT

AND

DR. REMMY K.K. MUSHOTA

1ST RESPONDENT

PATRICK KATYOKA

2ND RESPONDENT

Coram: Sakala, ACJ; Chaila, ADCJ; Chirwa, Muzyaniba,
Lewanika, Chibesakunda, JJS and Mambilima, AJS

14th September, 2000

For the Appellant: Messrs M. Chona, SC, and J. Sakala, SC; Prof. Mvunga; Mr. S.
Sikota, Mrs. N. Zaloumis, Mrs. N. Mutti and Mr. C. Mundia.

For the 1st Respondent: N/A

For the 2nd Respondent: In Person

RULING

Chaila, ADCJ, delivered the Ruling of the court.

There were four applications before us, namely:

1. to join Mr. Chibesa as 1st Respondent as administrator of the estate of the deceased Dr. Mushota;
2. an amended application for leave to appeal out of time by the Attorney General;

3. a preliminary issue on the composition of the bench by the 2nd Respondent;
4. an application for security of costs by the 2nd Respondent.

We heard all these applications and we have considered all of them. Our rulings are as follows:

1. On the joinder of the administrator, we allow the application to join the administrator of the estate subject to him filing letters of administration issued by a court of competent jurisdiction and must be filed in the Supreme Court Registry within 10 days of the date hereof.
2. As regards the 2nd application by the Attorney General for leave to appeal out of time, the application is granted a notice of appeal and a memorandum of appeal must be filed within 10 days from the date hereof.
3. As regards the preliminary issue raised by the 2nd Respondent, this has been withdrawn or abandoned and properly so in our view because had he gone ahead, he risked being held in contempt of this court.
4. As regards the application for security of costs by the 2nd Respondent, we have looked at our Rules and Order 59 of the Rules of the Supreme Court and we are satisfied that the application does not comply with our Order 59 in that:
 - a. It was not made promptly; it was only filed yesterday (13/09/2000).
 - b. It does not give a detailed estimate of the costs of the appeal; and
 - c. It does not disclose special circumstances warranting us to order security of costs. This application is therefore refused.

Costs of these applications will abide the outcome of the appeal.

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E.L. SAKALA
ACTING CHIEF JUSTICE

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M.S. CHAILA
ACTING DEPUTY CHIEF JUSTICE

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D.K. CHIRWA
SUPREME COURT JUDGE

.....
W.M. MUZYAMBA
SUPREME COURT JUDGE

.....
D.M. LEWANIKA
SUPREME COURT JUDGE

.....
L.P. CHIBESAKUNDA
SUPREME COURT JUDGE

.....
I.C. MAMBILIMA
ACING SUPREME COURT
JUDGE