

IN THE SUPREME COURT OF ZAMBIA  
HOLDEN AT LUSAKA

APPEAL NO. 155/2005

**(Civil Jurisdiction)**

**BETWEEN:**

EVANS NGUBAI:

APPELLANT

**AND**

KAFUE TEXTILES

1<sup>ST</sup> RESPONDENT

BETHEL BAPTIST CHURCH

2<sup>ND</sup> RESPONDENT

Coram: Mumba and Mushabati JJS and Kabalata AJS

On the 16<sup>th</sup> October, 2007 and 29<sup>th</sup> November, 2007

For the Appellant: M.L. Mukande, of M.L. Mukande and Company

For the 1<sup>st</sup> Respondent: H. Chizu of I.C Ngo'nga and Company

For the 2<sup>nd</sup> Respondent: J.M. Chimembe, of JMC and Associates

---

### **RULING**

---

#### **Kabalata, AJS, delivered the ruling of the court**

This was supposed to be an Appeal against the Ruling of the High Court dated 30<sup>th</sup> May 2005 in which the learned trial judge refused an application by the Plaintiff for the continuation of the injunction order which had earlier been granted *ex parte*.

After counsel had made their submissions, the court discovered that no leave had been obtained from the court below to file this appeal in this court. This



position was confirmed by Mr. Chimembe and Mr. Chizu, counsel for the Respondents.

It is mandatory under Section 24(1)(e) of the Supreme Court Act Cap 25 of the Laws of Zambia, for leave to be sought first before lodgment of appeal. Section 24(1)(e) of the Supreme Court Act provides that no appeal lies from an order made in chambers by a judge of the High Court without leave of a judge. Since no leave was obtained by the appellant, we have no difficulty in finding that this appeal is improperly before this court. In short, the appeal is incompetent. It is therefore dismissed with costs to the Respondent.



**F.N.M. Mumba**  
**SUPREME COURT JUDGE**



**C.S. Mashabati**  
**SUPREME COURT JUDGE**



**T.A. Kabalata**  
**ACTING SUPREME COURT JUDGE**

