

**IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA**
(Commercial Jurisdiction)

2019/HPC/0036



BETWEEN:

DELICIOUS MILLING LIMITED

PLAINTIFF

AND

KASOMPE MILLING LIMITED

DEFENDANT

**Before Hon. Mr. Justice Bonaventure C. Mbewe in Chambers on 4th
December, 2019**

For the Plaintiff : *Mr. A. Roberts of Alfred Roberts
& Co.*

For the Defendant : *Mr. M. Tembo of Messrs. G. M.
Legal Practitioners*

R U L I N G

The Court is greatly distressed and disappointed that Counsel for the Defendant never served its applications on the Plaintiff's Advocates until a day ago when the same were filed and the date fixed for hearing on 8th November, 2019.

The absence of Counsel for the Plaintiff at the hearing of 27th November 2019 is therefore explained as he did not have notice of the said application and hearing date.

Such conduct is greatly frowned upon as it delays the hearing and resolution of what are supposed to be speedy interlocutory applications. Upon application by Counsel for the Defendant for stay of execution and to pay the Judgment debt herein in instalments. The Plaintiff's Counsel accepting the offer to pay in instalments via *viva voce* submission subject to certain conditions.

This Court hereby wakes the following Order:

1. That the application for leave to stay execution herein is declined as the Defendant did not serve the documents herein expeditiously and prejudiced the Plaintiff's position *viz a viz* responding thereto.

Further, with the Defendant said to be of no known abode, such an order will not serve the interests of justice.

2. That the application to pay the judgment debt in instalments is hereby granted only in view of the Plaintiff's acceptance of the proposal contained therein.

The Defendant is hereby ordered to settle the judgment debt in instalments of K200,000.00 per month with the first instalment being

due and payable within the next 48 (Forty-Eight Hours) and thereafter being due on the 5th day of each and every month until full settlement of the judgment debt and costs.

In accordance with the provisions of **Order 36**, should any instalment falling due be defaulted on, the balance of the judgment debt remaining unsettled will immediately become due and payable and the plaintiff shall be at liberty to levy execution without further recourse to the Defendant or the court.

The Defendant is hereby Ordered to provide details of its place of operation to the plaintiff within the next 48 hours which place shall be open to verification by the plaintiff in view of Counsel's application therefore, which application was not opposed regarding the application for the Defendant to provide security for the debt, the same is declined.

Costs to the Plaintiff.

Delivered under my hand this 5th day of December, 2019 at Lusaka.



.....
Bonaventure C. Mbewe
HIGH COURT JUDGE