

**IN THE HIGH COURT FOR ZAMBIA**

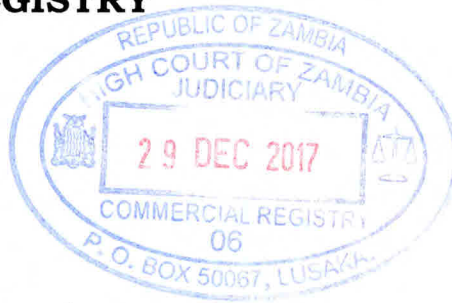
**2014/HPC/0083**

**AT THE COMMERCIAL REGISTRY**

**HOLDEN AT LUSAKA**

**(Civil Jurisdiction)**

**BETWEEN:**



**MADISON FINANCE COMPANY LIMITED**

**APPLICANT**

**AND**

**YOTAMU CHISI T/A JAMITANDO ENTERPRISES**

**1<sup>ST</sup> RESPONDENT**

**NGULUBE JEFTIN SINYINZA**

**2<sup>ND</sup> RESPONDENT**

**Before the Hon Lady Justice Irene Zeko Mbewe in Chambers**

*For the Applicant:* N/A

*For the 1<sup>st</sup> Respondent:* In Person

*For the 2<sup>nd</sup> Respondent:* N/A

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## **RULING**

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### **Cases Referred to:**

1. *Vijaygiri Goswami V Dr. Mohamed Anwar Essa and Commissioner of Lands, SCZ Judgment No. 3 of 2001*
2. *Mtonga and Another v Money Matters Limited (2010) ZR Volume 1 382*
3. *Nkongolo Farm Limited v Zambia National Commercial Bank Limited, Kent Choice (in receivership) and Charles Haruperi (2005) ZR 78*
4. *Stanley Mwambazi v Morester Farms Limited [1977] ZR 108*

5. *Pretoria City Council v Ismail [1938] TPD 246*
6. *Sonny Paul Mulenga & Vismer Mulenga (Both personally and Practicing as SP Mulenga International), Chainama Hotels Limited and Elephants Head Hotel Limited v Investrust Merchant Bank Limited (1999) Z.R. 101*

**Legislation Referred to:**

1. *High Court Rules, Chapter 27 of the Laws of Zambia*
2. *Money Lenders Act, Chapter 398 of the Laws of Zambia*

This is a Ruling on the 1<sup>st</sup> Respondent's application for an order to set aside the Judgment order pending an application for an order to review the said Judgment Order. The application is made pursuant to *Order 20 Rule 3 and Order 39 High Court Rules, Cap 27 of the Laws of Zambia*.

The supporting affidavit filed on 27<sup>th</sup> July, 2017 deposed to by the 1<sup>st</sup> Respondent reveals that the Applicant commenced an action against the Respondents herein on 19<sup>th</sup> February 2014 and that the Court entered Judgment in default of appearance and defence, and subsequently a Judgment Order on 3<sup>rd</sup> July, 2014. It is deposed that the Applicant never served the Respondents with Court process hence they were unaware of the proceedings against them. The 1<sup>st</sup> Respondent contends that the Applicant's failure to serve him with

