



**REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
CIVIL DIVISION
LILONGWE DISTRICT REGISTRY
ELECTION CAUSE NO. 11 OF 2025
(Before Hon. Justice Namonde)**

BETWEEN:

MIKE CHIMZUKILA.....CLAIMANT

AND

**MALAWI ELECTORAL COMMISSION.....DEFENDANT
(ATTORNEY GENERAL)**

Coram: THE HONOURABLE JUSTICE NAMONDE

Chibwana, of Counsel for the Claimant
Counsel for the Defendant - Absent
Makalani, Court Clerk

**RULING ON AN APPLICATION FOR AN INTERLOCUTORY
INJUNCTION**

1. On 23rd September, 2025, the Claimants filed an application without notice for an interlocutory order of injunction. Noting some typos and

misstatements, we sent back the application and directed that the application should be made with notice to the Defendant to be heard by this Court on 24th September, 2025 at 11:00. We did this noting that the Claimant had also filed a certificate of urgency. Going through the facts, we acknowledge that the matter needed to be treated with urgency as the Claimant was seeking an order of interlocutory injunction restraining the Defendant from announcing parliamentary election results for Bwaila Constituency or deeming or recognizing any candidate as winner of the said parliamentary election held on 16th September, 2025 until determination of the matter by the constituency returning officer, district returning officer or Malawi Electoral Commission or further order of the Court.

2. We also state that in an urgent application, as the Court has relatively little time to attend to the application, we expect nothing less but professionalism and precision from the party seeking an urgent application. The fact that the application is of urgency does not mean the rules of procedure are relaxed. In fact, the very pressure of an urgent application is precisely why Counsel cannot afford to be imprecise. Urgency demands excellence.
3. Coming back to the present application, it was made under Order 10 rule 27 of the Courts (High Court) (Civil Procedure) Rules, 2017, (hereinafter called the CPR).
5. From the outset we point out, as it has been done in numerous case authorities, that it is fundamental that a party seeking to move the Court should act diligently by crafting the application with precision and to cite the relevant law accurately. Citing the correct law is not a technicality but goes to the core of the application itself as it is the law quoted in the application that would be clothing the court with the necessary jurisdiction to hear the

application. Quoting a wrong law is lethal and renders the application ‘dismissed in limine.’ (see **George Kainja & Anor v Attorney General & Anor, Judicial Review Number 48 of 2022**). In the **George Kainja** case, in dismissing the application before it stated that “*there is a mismatch or incompatibility between the application and the legal provision under which the application is being made. This cannot work as the Court has not been clothed with the requisite jurisdiction to hear the application.*” Similar outcomes will be seen in a number of cases where applications were dismissed for citing a wrong law or not citing any law at all. (see In **Maxwell Yasin Chande v Indefund** [2010] MLR 229; **Faizal Abdul Gaffar t/a Mapeto Tyres v Malawi Revenue Authority**, MSCA MISC. Application No. 55 OF 2021; **Lonjami Investment & 29 Others v The Registered Trustees of Smallholder Farmers Revolving Fund of Malawi**, Commercial Case No. 181 of 2023.)

6. Looking at the application that is before this Court, the Claimant has quoted Order 10 rule 27 of the CPR. The provision is in the following words,

“the Court may, on application, grant an injunction by an interlocutory order when it appears to the Court-

- a. there is a serious issue to be tried;*
- b. damages may not be an adequate remedy; and*
- c. it shall be just to do so.*

and the order may be made unconditionally or on such terms or conditions as the Court considers just.”

7. From a reading of Order 10, it is clear that for an application to come under the Order, it must meet some conditionalities. From the titling of Order 10 of

the CPR, 'APPLICATIONS IN PROCEEDINGS AND INTERLOCUTORY ORDERS,' it is clear that for an application to come under Order 10, there must be proceedings that are subsisting in this Court. Order 10 rule 1, famously called the omnibus provision for interlocutory applications is in the following words, "*a party may apply during a proceeding for an interlocutory order or direction of the Court by filing an application in a proceeding in Form 4.*" Clearly, for an application to come under Order 10, there must be a sitting matter in the courts. We took time to go through the file to check what proceedings were subsisting in this Court to warrant this application, we found none meaning the application is irregular in that regard.

8. Further, we took note that the matter before us is an election matter. The cause number itself is a clear indicator. The facts as well speak for themselves.
9. In **Catherine Gollen Majamanda v Edward Chileka Banda & Malawi Electoral Commission**, Election Cause No. 10 of 2025, Banda (J) stated as follows,

"however, before proceeding any further, this court notes that the Application has been brought under wrong provisions of the procedural rules. The matter herein is an electoral matter properly so called. It is not just any other matter. And being such, the proper provisions in handling electoral matters are Order 19 rule 13(as regards commencement) and in light of the application before this court, it is Order 19 rule 19 of the Courts (High Court) (Civil Procedure) Rules (as regards injunctions)."

10. It is clear that there is no commencement of any election matter in this Court to even warrant an application for an interim order of injunction.

11. This tells us that the application is seriously misguided as there are no proceedings that have been commenced in Court to form a basis of the application. The Claimant has also cited a wrong provision in his application. The application cannot survive and is therefore dismissed.

Dated this 24th September, 2025



Gloria Alinafe Namonde

JUDGE