



REPUBLIC OF MALAWI
IN THE SUPREME COURT OF APPEAL
SITTING AT BLANTYRE

MISC. CIVIL APPLICATION NUMBER 05 OF 2025

(Being High Court, Civil Division, Lilongwe Registry, Land Cause No 248 of 2024)

BETWEEN

BRAVE KAWONGA.....APPLICANT

AND

TAURAI MEDSON.....RESPONDENT

CORAM: HON. JUSTICE M.C.C. MKANDAWIRE SC, JA

Agagi/Zimba, Counsel for the Applicant

Majekete, Counsel for the Respondent

C. Masiyano, Recording Officer

RULING

1. On 6th February 2025, the Applicant filed a without notice application for an order of interlocutory injunction. The application was brought pursuant to section 7 of the Supreme Court of Appeal Act as read with Order 1 rule 18 of the Supreme Court of Appeal Rules. The said application was made after the Court below had declined to grant an injunction to the Applicant.

2. On 6th of February 2025, I granted an interim injunction in favour of the Applicant. I however ordered that within 7 days the Applicant should file an inter-party application and that the matter should come up for hearing on 18th March 2025.

3. In compliance with my order of 6th February 2025, the Applicant on 20th of February 2025 filed an interparty application to extend an order of

interlocutory injunction. The application was made pursuant to Court's order and section 7 of the Supreme Court of Appeal Act as read together with Order 1 rule 18 of the Supreme Court of Appeal Rules. This application was accordingly heard on 18th of March 2025 hence this ruling.

4. I have carefully gone through the matter placed before me; which is loaded with lengthy affidavits including exhibits, besides the actual intended application. Whilst it is tempting to comment on multiple issues that arise as a result of twists and turns that have characterized this land dispute, I however leave that for the Court below.

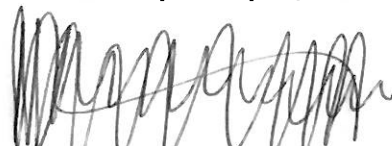
5. In considering the so many documents that have characterized this application, I am mindful of the fact that an injunction is a temporary and exceptional remedy which is available before the rights of the parties have been finally determined. It is very clear according to Order 10 rule 27 of the Civil Procedure Rules that a court may grant an injunction by an interlocutory order when it appears to the court that (a) there is a serious question to be tried, (b) damages may not be an adequate remedy and (c) it shall be just to do so.

6. Having carefully read and considered the sworn statements and submissions by both sides, it is very clear in my mind that there are so many contentious issues in this case. The facts in this case are a hot potato. There is a heavy contestation. Both parties are vigorously claiming for ownership of the land.

7. Having given the case the best of its scrutiny, taking into account the contestation on both factual and the legal questions that arise therefrom, I do not think that this is a proper case where I should order for the continuation of the interlocutory injunction which I had given on 6th of February 2025.

8. In view of what I have said above, I am irresistibly inclined to the view that the balance of justice lies in not extending the injunction. Accordingly, the application is dismissed with costs.

Pronounced in Chambers this 2nd day of April, 2025 at Blantyre.



M.C.C. MKANDAWIRE SC

JUSTICE OF APPEAL