

IN THE SUPREME COURT OF APPEAL SITTING AT BLANTYRE

MSCA MISCELLANEOUS APPLICATION NO. 55 OF 2021

[Being Miscellaneous Civil Cause Number 2 of 2021 at the High Court of Malawi,
Revenue Division]

BETWEEN

FAIZAL ABDUL GAFFAR T/A MAPETO TYRES

& MAPETO RETREAD

APPLICANT

AND

MALAWI REVENUE AUTHORITY

RESPONDENT

CORAM: HON. JUSTICE L P CHIKOPA SC JA

Kamkwasi, J.[Mr.]/Banda, F.[Mr.], of Counsel for the Applicant

Msisha, M. SC[Mr.]/Mwangwera,[Mrs.]/Chungu,[Mr.] of Counsel for
the Respondent

Chintande[Mrs.]/Masiyano[Ms.], Clerks

RULING/ORDER

We should have delivered this ruling much earlier. We could not due to
circumstances beyond our control.

Suffice it to say for now that the applicant is appearing *inter alia* before the High
Court Revenue Division on cases to do with alleged noncompliance with tax laws.

In the course of dealing with such alleged noncompliance the respondent impounded goods, namely tyres, from the applicant with the further consequence that his business is now effectively shut down.

The applicant is of the view that he should be allowed to operate his business. He believes that if he is not allowed to so do irreparable damage will be done to his business. The stock will be unjustifiably damaged to such an extent that even if the respondent were to pay for such damage, the same would be inappropriate. It will be the Malawian tax payer paying when the damage is avoidable. It is for this reason that he prayed that he be granted an injunction allowing for the release of his stock so that he can continue to trade while the cases against him proceed in the courts below.

The application is supported by the affidavit of Ibrahim Shabir General Manager of the business affected by the seizure/embargo and it is opposed by the respondent.

We will not grant the application. To begin with the application does not on its face state the law under which it is brought. Not even in the skeleton arguments. More than that the application does not provide the context in which it is brought. This is an appellate court. The application therefore should have been brought as an appeal or in furtherance or in the context of one. Not as a stand-alone application. It is accordingly dismissed with costs.

Dated at Blantyre this 26th day of July, 2023.



L P CHIKOPA SC

JUSTICE OF APPEAL