



**IN THE MALAWI SUPREME COURT OF APPEAL  
SITTING AT BLANTYRE  
CIVIL APPEAL NO. 9 OF 2025**

(Being High Court Civil Appeal No 21 of 2021 (before the IRC Matter No PR24 of 2015))

**BETWEEN:**

**CHARLES NSALIWA ..... APPELLANT  
AND  
MALAWI COMMUNICATIONS  
REGULATORY AUTHORITY ..... RESPONDENT**

**CORAM: HON. JUSTICE R. MBVUNDULA, SC, JA**  
Sauti-Phiri SC, Counsel for the Appellant  
Dzimphonje, Counsel for the Respondent  
Fundani, Recording Officer

**RULING**

1. On 16<sup>th</sup> October 2025 the appellant filed a notice of motion for leave to amend his grounds of appeal, together with the proposed amended grounds. The notice of motion was brought pursuant to Order III rule 5 of the Supreme Court of Appeal Rules.
2. In reaction thereto the respondent, on 27<sup>th</sup> October 2025, filed a notice of preliminary objection pursuant to Order III rule 14 of the rules.
3. The appeal is set down for hearing on 19<sup>th</sup> February 2026.
4. The respondent states in its notice that it intends to rely upon the preliminary objection both at the hearing of the application to amend (which came before me) as well as at the hearing of the appeal.
5. The application to amend came before me as a single member of the Court pursuant to section 7 of the Supreme Court of Appeal Act which provides that

a single member of the Court may exercise any power vested in the Court not involving the hearing or determination of an appeal.

6. The grounds relied upon in the preliminary objection are couched as follows:
  - 6.1 This Appeal has been irregularly brought before this Court, the Notice of Appeal herein being filed after the expiry of time contrary to Section 23 (1)(b) of the Supreme Court of Appeal Act.
  - 4.2 This Appeal has been irregularly brought before this Court, the Respondent having brought the same without any valid order enlarging time to appeal contrary to Order III rule 4 of the Supreme Court of Appeal Act.
  - 6.2 This Appeal is further irregular and incompetent as the Appellant's Skeleton Arguments in support of the appeal raise and address issues that do not arise from, nor are they contained in, the filed Grounds of Appeal.
7. As the respondent clearly intimates that it intends to raise before the full bench of the Court the very same objection that is now before me as a single member of the Court, I form the view that it is judicially uneconomic that the same be considered twice.
8. I also form the view that if the preliminary objection would, at this stage be determined in favour of the respondent, it would effectively dispose of the appeal, in that the appeal would fall away. Such a result would offend the powers conferred upon a single member of the Court under section 7 of the Supreme Court of Appeal Act.
9. Upon the foregoing grounds I would, as I hereby do, defer the within application to the full bench of the Court.
10. I make no order as to costs, having deferred the application to full bench.

Made in chambers this 4<sup>th</sup> day of February 2026.

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**HON. JUSTICE R. MBVUNDULA, SC**  
**JUSTICE OF APPEAL**