JUDICIARY
IN THE HIGH COURT OF MALAWI
CIVIL DIVISION - LILONGWE DISTRICT REGISTRY
CIVIL CAUSE NO. 652 OF 2021

BETWEEN

ENOS LYTONI JOSE CHAKACHADZA ……..…… CLAIMANT

AND

SYDINEY DZIKAWANDA ……..…… 1ST DEFENDANT

SITILITHA NKHWAZI ……..…… 2ND DEFENDANT

WILSON EPHREM MADAKA ……. 3RD DEFENDANT

GREDSON DICKSON …….……...……...…...….... 4th DEFENDANT

CORAM: **THE HONOURABLE JUSTICE KENYATTA NYIRENDA**
Mr. Chakachadza, Counsel for the Claimant
Mr. Chingeni and Mr. Mwentembera, Counsel for the Defendants
Mrs. Mombera, Court Reporter
Mrs. Alinafe Mtenje, Court Clerk

JUDGMENT

Kenyatta Nyirenda, J.

1. This is this Court's judgement on an action commenced by the Claimant. The Amended Statement of Claim is couched in the following terms:

> *"1. The Claimant is a Malawian citizen and the rightful heir to the throne of Group Village Headman Chakachadza Chieftaincy situate in Chakachadza Village, Dedza, Malawi, and he is suing in that capacity.*

2. *The Defendants are aggrieved to the fact that the Claimant was **appointed** and **installed** as Group Village Headman Chakachadza in Chakachadza Village, Dedza, Malawi, and they are being sued in that capacity.*

3. *The Claimant was born on **20th October, 1960**.*

4. *That, until 1977, Group Village Headman Chakachadza was in the hands of the Late Lazaro Hola.*

5. *After the death of the Late Lazaro Hola in 1977, the Claimant's father, the **Late Lytoni Jose Chakachadza** was installed Group Village Headman Chakachadza in the year 1977 because the Late Lazaro Hola left behind only daughters who could not inherit the Ngoni Chieftaincy.*

6. *The Late Lytoni Jose Chakachadza ruled as Group Village Headman Chakachadza for about 26 years until the year 2003 when he passed away.*

7. *That, at the time of his death in the year 2003, the Late Lytoni Jose Chakachadza left three biological children, namely:*

   (a) *Teleza Lytoni (a daughter who was aged 53 by then).*

   (b) *Jenida Lytoni (a daughter who was aged 46 by then).*

   (c) *The Claimant, Enos Lytoni Jose Chakachadza (a son aged 43 by then).*

8. *That, after the death of the Claimant's father, the **Late Lytoni Jose Chakachadza** in the year 2003, the right person who was supposed to inherit the chieftaincy of Group Village Headman Chakachadza was the Claimant. However, the Claimant could not inherit the chieftaincy then because he was residing away in Lilongwe where he was working and doing various businesses to carter for his family there.*

9. *That, the Claimants' two sisters, **Teleza Lytoni** and **Jenida Lytoni**, could also not take over the chieftaincy of Group Village Headman Chakachadza as a **chalinda or gwirize** because:*

   (a) ***Teleza Lytoni** was very sick at the time.*

   (b) ***Jenida Lytoni** was also away in Lilongwe (Mitundu) where she was residing with her husband.*

10. *That, as a consequence, the **Late Feleni Jimu**, took over the chieftaincy of Group Village Headman Chakachadza in the year 2003 as a **chalinda or gwirize** and it was culturally and customarily expected that, at some point, the chieftaincy shall revert back to the rightful heir who is the Claimant.*

11. *That, nevertheless, the chieftaincy **stick** (**Mkondo**) and **Khoza (zibangili)** for Group Village Headman Chakachadza were never handed over to the **Late Feleni Jimu***

*because that **stick** (**Mkondo**) and **Khoza** could only be handed over to the rightful heir to the throne of Group Village Headman Chakachadza who was a male child of the Deceased's chief.*

12. *That, the **Late Feleni Jimu** ruled as Group Village Headman Chakachadza as a **chalinda/gwirize** from 2003 to 2018 when she passed away.*

13. *That, after the death of the **Late Feleni Jimu** in the year **2018**, the Claimant had now retired from his work and businesses in Lilongwe and he was fully available to take over the throne of Group Village Headman Chakachadza.*

14. *That, consequently, according to Ngoni culture, customs and traditions, the three (3) Chakachadza Families (namely; Phungwako, Likhulini, Msanga), through their respective **Ntchemberes** (old women in the village) who were three in number appointed the Claimant to be the one to take over the throne of Group Village Headman Chakachadza after the death of the Late Feleni Jim in the year 2018.*

15. *That, further, according to Ngoni culture, customs and traditions, the **Ntchemberes** referred the Claimant's name to **Makosana (old men in the village)** who were about five in number for further scrutiny and assessment.*

16. *That, after their scrutiny and assessment, Makosana approved the Claimant as the one to take over the throne of Group Village Headman Chakachadza after the death of the Late Feleni Jim in the year 2018.*

17. *That, consequently, the Makosana and Ntchembere went to Traditional Authority (T/A) Kachere where they informed the T/A of the Claimants' appointment.*

18. *The T/A gave the Makosana and Ntchembere a date when the Claimant was going to be brought before the T/A for the final installation.*

19. *When the set date had arrived, the Claimant was taken to the T/A for installation by the Makosana and Ntchembere. On that day, the Claimant was also accompanied by traditional leaders from Chakachadza Village and a large number of villagers.*

20. *That, however, the T/A did not install the Claimant because the Late Feleni Jim's Family had lodged an objection to the Claimant's installation. Therefore, the T/A referred the Claimant back to the village to discuss and deliberate on the issue with the Late Feleni Jim's Family.*

21. *When the Claimant went back to the village, the two families had the discussions and the Late Feleni Jim's Family conceded that the Claimant should succeed to the throne of Group Village Headman Chakachadza.*

22. *Consequently, the Makosana and Ntchembere went back to the T/A to report that the Late Feleni Jim Family had conceded to the Claimants' succession to the throne of Group Village Headman Chakachadza. Therefore, the T/A issued a new date*

when the Makosana and Ntchembere were supposed to present the Claimant to the T/A for installation.

23. *When the set date came, the Makosana and Ntchembere took the Claimant before the T/A for installation. On their way, they were accompanied by traditional leaders from Chakachadza Village and a group of villagers.*

24. *At the T/A, they were charged **Mbuzi (MK50, 000.00)**. However, they did not pay the Mbuzi because the T/A informed them that the Late Feleni Jim's Family still maintained their objection against the Claimant's installation and they were referred back to the Late Jim's Family for further discussions on the matter.*

25. *The Claimant, the Makosana and Ntchembere returned to the village where they called the Late Feleni Jim's Family for further discussions. However, the Late Feleni Jim Family refused to participate in the discussions.*

26. *As a consequence, the Claimant's side reported back to the T/A that the Late Feleni Jim's Family had refused to further discuss the matter. After about a month, the T/A summoned both sides and asked the Late Feleni Jim's Family why they did not want to engage into further discussions with the Chakachadza family. The Late Feleni Jim's Family said they wanted the chieftaincy to be split into two. However, the T/A declined to do so but he referred the parties back to the village for further discussions.*

27. *When the parties went back to the village, the Late Feleni Jim's Family still refused to meet the Claimant's family for further discussions. To the contrary, the Late Feleni Jim's Family sent letters to Village Headmen under GVH Chakachadza inviting them to a ceremony where they were going to see their new GVH Chakachadza.*

28. *So, as a consequence, the Claimant sent **Mr. Josephy Benjaman** to the T/A to inquire about the alleged new GVH Chakachadza and to get a stay order against the Late Feleni Jim's Family's intentions to unveil their new GVH Chakachadza.*

29. *Upon hearing this, the T/A summoned both parties to his offices on a future and new date.*

30. *When the said new date had come, the T/A informed both parties that, since the Late Feleni Jim's Family had refused to engage into any further discussions with the Chakachadza Family as he had directed, he was going to install the Claimant as GVH Chakachadza. The T/A further said he was going to recall all the parties.*

31. *Eventually, all parties involved went back to Chakachadza Village.*

32. *Later, the T/A set a new date for the parties to meet him. The set date was **19th of February, 2019**.*

33. *When the new date (**19th of February, 2019**) had come, the Claimant was taken to T/A Kachere by the **Makosana** and **Ntchembere.** The Claimant was also accompanied by traditional leaders from Chakachadza Village and a group of villagers.*

34. *At the T/A, they paid **Mbuzi (MK50, 000.00)** and later the mwambo (advice ceremony) was done.*

35. *Essentially, on the **19th of February, 2019**, the Makosana and Ntchembere presented the Claimant before Traditional Authority Kachere who installed him as Group Village Headman Chakachadza and the Claimant went back to the village to discharge his duties.*

36. *Further, after about two weeks, the Claimant went back to T/A Kachere where he was handed over the Late Feleni Jim's Chieftaincy Identification Documents (IDs) and he was advised to take them to Dedza District Council (DDC) for the DDC to update their records that the Claimant was then the new Group Village Headman Chakachadza.*

37. *In addition, the T/A also wrote a letter to Dedza District Council advising the Council that the Claimant was the new Group Village Headman Chakachadza and also authorizing the Council to update their records that the successor to the throne of Group Village Headman Chakachadza was the Claimant.*

38. *That, what remains now is for the unveiling ceremony of the Claimant as Group Village Headman Chakachadza to the people of Chakachadza Village.*

39. *That, however, the Defendants are preventing the Claimant from being unveiled as Group Village Headman Chakachadza because they believe that the Claimant was not dully **appointed** and **installed** as Group Village Headman Chakachadza.*

40. *That, therefore, due to the Defendants' conduct, the Claimant is suffering from the following losses and/or damages:*

    (a) *Loss of his respect as Group Village Headman Chakachadza.*

    (b) *Loss of his freedom and liberty to freely exercise and discharge his duties as Group Village Headman Chakachadza.*

    (c) *Loss of his freedom and liberty to be unveiled as Group Village Headman Chakachadza.*

    (d) *Inconvenience.*

    (e) *Costs of this action.*

41. Wherefore, in view of the above, the Claimant claims against the Defendants for the following orders and reliefs:

(a) An order declaring that, according to the Ngoni culture, customs and traditions, he is the rightful heir to the throne of Group Village Headman Chakachadza Chieftaincy situate in Chakachadza Village, Dedza, Malawi.

(b) An order declaring that, according to the Ngoni culture, customs and traditions, he was rightly appointed and installed as Group Village Headman Chakachadza.

(c) An order of injunction permanently stopping and preventing the Defendants, their agents and/or any one acting on the Defendants' behalf, and indeed anyone, from obstructing the Claimant from discharging and exercising his duties as Group Village Headman Chakachadza.

(d) An order of injunction permanently stopping and preventing the Defendants, their agents and/or any one acting on the Defendants' behalf, and indeed anyone, from preventing the Claimant from being unveiled as Group Village Headman Chakachadza.

(e) Or, alternatively, in the event that the court finds that the processes of installing the Claimant as Group Village Headman Chakachadza were never finalized, the Claimant claims the following orders and reliefs:

(i) An order declaring that, according to the Ngoni culture, customs and traditions, he is still the rightful heir to the throne of Group Village Headman Chakachadza Chieftaincy situate in Chakachadza Village, Dedza, Malawi.

(ii) An order of injunction permanently stopping and preventing the Defendants, their agents and/or any one acting on the Defendants' behalf, and indeed anyone, from preventing the Claimant from being installed Group Village Headman Chakachadza in accordance with Ngoni culture, customs and traditions.

(iii) That, once installed, an order of injunction permanently stopping and preventing the Defendants, their agents and/or any one acting on the Defendants' behalf, and indeed anyone, from obstructing the Claimant from discharging and exercising his duties as Group Village Headman Chakachadza.

(iii) Further, an order of injunction permanently stopping and preventing the Defendants, their agents and/or any one acting on the Defendants' behalf, and indeed anyone, from preventing the Claimant from being unveiled as Group Village Headman Chakachadza.

(f) An order that the Defendants do pay the Claimant damages for inconvenience.

(g) An order for costs of these proceedings." – Emphasis by underlining supplied

2. I momentarily stop to observe that the Court finds the action by the Claimant against the Defendants to be very puzzling. According to paragraph 2 of the Amended Statement of Claim, it is the Defendants that are aggrieved by the fact that the Claimant was appointed and installed as Group Village Headman Chakachadza. In the ordinary course of events, it is an aggrieved party that commences an action seeking redress of his grievance. That is not the case in this case. This aspect of the case will be elaborated on shortly.

3. The Defendants filed with the Court the following Statement of Defence:

"1. The Defendant refer to paragraph 1 of the Claimant's statement of case and state that it is not true that the Claimant is the rightful heir, the rightful heir is Sitilitha Nkhwazi Jimu Chakachadza (2nd Defendant). The Claimant is from Kamtukule family not Chakachadza family as he claims.

2. The Defendants refer to paragraph 2, of the Claimant's statement of case and state that it is not true that they are distant relatives to the Claimant. The Defendants state that they are not related to him as the Claimant comes from Kamtukule family and the Defendant come from Chakachadza family.

3. The Defendants refer to paragraph 3 and admit the contents thereof.

4. The Defendants refer to paragraphs 4 and 5 of the Claimant's statement of case and state that the Claimant's father was never appointed not installed as Group Village Headman (hereinafter referred to as GVH) Chakachadza in the year 1977, rather it was Late Feleni Jimu who was appointed and installed GVH Chakachadza that year until 1984 when the Claimant's late father overthrew her and assumed the throne. The Claimant's father ruled from 1984 to 1999 then he left the throne to late Feleni Jimu who was re-installed as GVH Chakachadza by Traditional Authority Kachere (hereinafter referred to as T/A) the same year. The late Feleni Jimu ruled her death in June, 2018.

5. The Defendants refer to paragraph 6 of the Claimant's statement of case and makes no comment.

6. *The Defendants refer to paragraph 7 of the Claimant's statement of case of the Claimant's statement of case and denies the contents thereof and puts Claimant to strict proof.*

7. *The Defendants refer to paragraph 8, and state that it is not true that only sons of the deceased's chief inherit their father's chieftaincy in Ngoni culture, daughters can also inherit the Chieftaincy that is why in 1977, Late Feleni Jimu was appointed and installed as GV Chakachadza, (there is also an example of T/A Kachindamoto who is a Female Ngoni Chief).*

8. *The Defendants refer to paragraph 9 of the Claimant's statement of case and state that, late Feleni Jimu was not related to the Claimant's father. Late Feleni Jimu was a daughter to late Jimu Chakachadza who was the first Village Headman of Chakachadza Village and was later on appointed as the first GVH Chakachadza. Late Feleni Jimu was related to the Defendants.*

9. *The Defendants refer to paragraph 10 and 11 and state that the Late Feleni Jimu was rightfully appointed and was given the Chieftaincy stick (locally called nduku and lichowa) and rightfully ruled as GVH Chakachadza until her death in June, 2018.*

10. *The Defendants refer to paragraphs 12 and 13 of the Claimant's statement of case and state that the Claimant was never appointed as the GVH by the Chakachadza family, the Defendants further state that Village Headmen do not have power to appoint chiefs in the Ngoni culture, only family members from royal family can do that.*

11. *The Defendants refer to paragraph 14 and state that it is not true that the Claimant was confirmed as GVH Chakachadza by T/A Kachere on 19th February, 2018 because by then the late Feleni Jimu was still alive. And then after her death T/A Kachere refused to install the Claimants as GVH, he ruled that an heir to the throne had to come from late Feleni Jimu's family.*

12. *After being denied by the T/A, the Claimant resorted to violence and broke T/A Kachere's office in a bid to force him to install him as GVH. T/A Kachere accepted because he feared for his life however later on, he told the Defendants that he was never appointed GVH.*

13. *The Defendants refer to paragraph 15 and 16 of the Claimants statement of case and state that the Claimant cannot be unveiled as GVH Chakachadza when he was never appointed nor installed as one. They also state that it is true that the Claimant has been acting as GVH through deceit since he threatened the T/A. Kachere be breaking into his office and has been telling people that he was installed as GVH Chakachadza by the T/A yet at the Dedza District Council Office, it was stated that T/A Kachere never installed anyone as GVH Chakachadza.*

14. *The Defendants refer to paragraphs 17 and 18 of the Claimant's statement of case and state that the Claimant is not entitled to any of the reliefs being sought by him*

as he is not the rightful heir to the throne and he was never appointed nor installed as GVH Chakachadza.

15. ***SAVE AS*** *hereinafter specifically admitted, the Defendants deny each and every allegation contained in the Claimant's statement of case as through the same were here in set out and traversed seriatim."*

4. Having examined the averments by both parties, and for reasons that will be obvious shortly, I have not found it necessary to recite in detail the various aspects of the evidence and the legal arguments advanced by the parties. Instead, I have opted as a matter of prudence to find out first the case that the Claimant has against the Defendant.

5. In a nutshell, the Claimant asserts that he is entitled to be appointed Group Village Headman Chakachadza and he was appointed as such: see the Amended Statement of Claim, particularly paragraphs 13, 14. 15, 16 and 17 thereof. The Claimant further asserts that, following his appointment as Group Village Headman Chakachadza, he was entrusted with the late incumbent's chieftaincy identification documents and directed to submit them to the Dedza District Council for the purpose of updating its official records to reflect his succession to the office. The Claimant further avers that the Traditional Authority formally communicated his appointment to Dedza District Council and authorized the corresponding amendment of its records. According to the Claimant, all processes relating to his appointment and recognition had been completed, save for the formal unveiling ceremony.

6. The Claimant contends that despite his appointment as Group Village Headman Chakachadza, the Defendants have obstructed the unveiling ceremony on the ground that they do not accept that he was lawfully appointed and installed as Group Village Headman Chakachadza: see paragraphs 38, 39 and 40 of the Amended Statement of Claim.

7. The evidence in support of these averments is contained in the Claimant's witness statement which concludes as follows:

"52. That, therefore, what remains now is for the unveiling ceremony of myself as Group Village Headman Chakachadza to the people of Chakachadza Village.

53. That, however, the Defendants are preventing me from being unveiled as Group Village Headman Chakachadza because they believe that I was not duly appointed and installed as Group Village Headman Chakachadza.

54. That, therefore, due to the Defendants' conduct, I am suffering from the following losses and/or damages:

... [as set out in the Claimant's Amended Statement of Claim] – Emphasis by underlining supplied

8. It is important to remember that appointment of group village headmen is governed by section 9 of the Chiefs Act. The provision states as follows:

> *"(1) A Chief may appoint such number of Group Village Headmen and Village Headmen as he may consider necessary to assist him in carrying out his functions.*
>
> *(2) The functions of a Group Village Headman and a Village Headman shall be to assist the Chief or Sub-Chief by whom he is appointed in the performance of his functions and to bring to the notice of that Chief or Sub-Chief any matter in his village or group of villages which is relevant to such functions.*
>
> *(3) The remuneration, if any, to be paid to a Group Village Headman or Village Headman shall be such sum as may be approved by the District Commissioner of the District in which the village or group of villages is situated"*

9. It is noteworthy that the law governing appointments of Group Village Headmen is fundamentally different from that relating to appointment of Chiefs. Section 4 of the Chiefs Act is instructive and it is framed thus:

> "(1) *The President may by writing under his hand appoint to the office of Paramount Chief, Senior Chief or Chief such person as he shall recognize as being entitled to such office.*
>
> (*2) No person shall be recognized under this section unless the president is satisfied that such person –*
>
> (a) *is entitled to hold the office under customary law;*
>
> (b) *has the support of the majority of the people in the area of jurisdiction of the office in question; and*
>
> *(c) in the case of the office of Senior Chief, is a chief and is recognized by all chiefs in his district as being entitled under customary law prevailing in that district to be appointed Senior Chief.*
>
> *(3) The appointment of any person to the office of Senior Chief under subsection (1) shall not affect the status of the substantive office of Chief or in any way confer on that person additional jurisdiction to the jurisdiction which he had before being appointed Senior Chief."*

10. One of the key differences between section 4 and section 9 of the Chiefs Act that stands out like a sore thumb is that in order for the President to exercise his

power to appoint a person as a Chief under section 4 of the Chiefs Act, the President must satisfy himself that the person is entitled to that office in accordance with the custom of the clan and that the person commands the support of the majority of the people in the area of jurisdiction: see **Kukhaya and others v. Attorney General** [1999] MLR 137. There are no such requirements or conditions in respect of appointments of Group Village Headmen under section 9 of the Act.

11. Based on section 9 of the Act, a person cannot unilaterally claim to be a Group Village Headman because section 9 of the Act makes it clear that the power to appoint a Group Village Headman is exclusive to the Chief and the words *"A Chief may appoint..."*, in subsection (1), establish that the authority to initiate the appointment process lies solely with the Chief. It is a discretionary power that must be exercised proactively by the Chief. Needless to say, it is not a right or entitlement that an individual can claim for himself or herself.

12. Further, it is significant to note that subsection (1) also states that the Chief may appoint such a number of Headmen *"as he may consider necessary."* This makes the existence of the position conditional upon the Chief's subjective assessment of what is necessary to assist him in his functions. In this regard, an individual person cannot determine that he or she is necessary to the Chief's functions. It is only the Chief that has the legal standing to make that assessment.

13. Furthermore, and perhaps more importantly, section 9(2) of the Act defines the functions of a Group Village Headman as being *"to assist the Chief or Sub-Chief by whom he is appointed in the performance of his functions ..."*. This wording establishes that the legal status and legitimacy of the position of a Group Village Headman are conditional upon the formal, prior act of appointment by the Chief. Without an explicit, verifiable action of appointment by the Chief, a person cannot satisfy the definition of a Group Village Headman.

14. In summary, the position of Group Village Headman is not self-declared. Neither is it based on entitlement to hold the office under customary law or having the support of the majority of the people in the area of jurisdiction of the office in question alone as is the case in relation to the appointment of a Paramount Chief, Senior Chief or Chief under section 4 of the Act. Under section 9 of the Act, a position of a Group Village Headman must be bestowed by the Chief, predicated on

the Chief's own assessment of necessity and the Chief's formal action of appointment.

15. In the present case, the Claimant's Final Submissions simply quotes section 9 of the Act without analyzing it or showing how it applies to the facts of this case. I very much believe that this case would not have been commenced if Counsel had done the needful.

16.. Looking at the Amended Statement of Claim and the evidence adduced by the Claimant in support thereof, there can be no mistaking that the Claimant has premised his purported entitlement to be appointed Group Village Headman Chakachadza on the provisions of section 4 of the Courts Act. As established herein, those provisions do not apply to the office of a Group Village Headman. In the circumstances, the action by the Claimant is misconceived.

17. There is another reason why this case has to be dismissed. In this case, the Claimant asserts that he was appointed Group Village Headman Chakachadza. Unless and until it is proven that the Claimant was indeed appointed as Group Village Headman Chakachadza, the issue regarding his unveiling as Group Village Headman Chakachadza would be neither here nor there.

18. The Defendants contest the claim by the Claimant that he was appointed as Group Village Headman Chakachadza and they rely, among other things, on a letter written by the District Commissioner for Dedza. The letter REF. NO. DZ/DC/TA/1/12 dated 27th June 2021 contains a verdict to the effect that Chief Kachere did not appoint or confirm any of the contesting parties as Group Village Headman Chakachadza.

19. As already held in this case, the power to appoint a Group Village Headman under section 9 of the Act is vested in a Chief. The Claimant alleges that he was appointed as Group Village Headman Chakachadza by Traditional Authority Kachere. In this regard, the Court expected the Claimant to call Traditional Authority Kachere as his witness regarding his appointment as Group Village Headman Chakachadza. Instead of doing so, the Claimant called two witnesses, namely, Mr. Brenard Katswatswa (CW2) and Mr. Josephy Benjaman. Neither witness holds the office of a Chief, let alone that of Chief Kachere.

20. There can be no question that the evidence by Traditional Authority Chakachadza would have been relevant in determining the issues in this case. No explanation whatsoever has been given by the Claimant for his failure to call Traditional Authority Kachere, a witness who was both available and material to the central issues. In this regard, I am of the firm view that the following dicta in **Bauleni and Others v. Siku Transport and Another,** Personal Injury Cause Number 299 of 2014) (HC, Principal Registry, Unreported) applies to the present case with equal force:

> *"Where a material witness is available and is not called, it may be presumed that his evidence would be contrary to the case or interest of the party who failed to call him. Further, that the unexplained failure to call a material witness to prove a fact may raise suspicion and reduce the weight of evidence of the party concerned in the circumstances."*

21. Beyond the adverse presumption, the absence of this material testimony leaves the Claimant's evidence on this point essentially untested and unsupported. Consequently, the Court finds that this unexplained omission significantly reduces the weight to be afforded to the Claimant's assertions regarding the issue pertaining to his appointment as Group Village Headman Chakachadza., ultimately rendering them insufficient to discharge the burden of proof.

22. In view of the foregoing and by reasons thereof, the Court holds that the Claimant has failed to prove his claim on a balance of probabilities. Accordingly, the case is dismissed with costs.

Pronounced in Open Court this 20th day of November 2024 at Lilongwe in the Republic of Malawi.



Kenyatta Nyirenda
JUDGE