

IN THE MALAWI SUPREME COURT OF APPEAL SITTING AT BLANTYRE

MSCA CRIMINAL APPLICATION NO. 21 OF 2021

[Being Criminal Case Number 35 of 2014 at the High Court of Malawi, Lilongwe Registry]

BETWEEN

PAUL MONTFORT MPHWIYO & 18 OTHERS APPLICANTS

AND

THE REPUBLIC RESPONDENT

CORAM: HON. JUSTICE L P CHIKOPA SC JA

Chipeta, M G[Mr.] Of Counsel for The Applicants

Salamba[Mr.], Senior Deputy Chief State Advocate for The Respondent

Minikwa[Mr.], Clerk

RULING/ORDER

On May 10, 2023 we heard yet another application from the applicants in this matter. This time around they are asking for a stay of the proceedings they are appearing in in the court below, specifically before Lady Justice Chinangwa, pending an appeal they have lodged in this court.

For the record the applicants have appealed against Lady Justice Chinangwa's refusal to hear the said matter *de novo* having taken over the same from Lady

Justice Chombo[retired]. They have also separately raised the question whether the court below has jurisdiction to hear and determine their case.

Whereas we agree that the applicants are raising serious issues worthy of consideration on appeal we equally have serious doubts whether this is an appropriate case in which the proceedings in the court below should be stayed pending the hearing and determination of such appeal. If truth be told the applicants had plenty of time to have raised the appeal. Actually it would have been disposed of had they acted with sufficient speed.

Accordingly, we decline to grant the prayer for a stay of these proceedings in the court below

Dated at Blantyre this June 9, 2023.


L P CHIKOPA SC

JUSTICE OF APPEAL