

JUDICIARY
IN THE SUPREME COURT OF APPEAL

MSCA Civil Appeal No 6 of 2016

(Being Principal Registry Civil Cause No 409 of 2003; Blantyre
Commercial Division Case No 41 of 2009)

NED BANK MALAWI LIMITED

APPELLANT

AND

RASHID ISHMAEL HAMDAN

RESPONDENT

AND

BAZUKA & CO

1ST INTERVENER

AND

NAMPOTA & CO

2ND INTERVENER

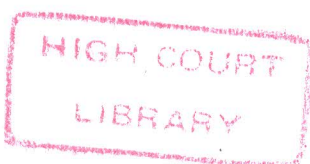
Civil Procedure – stay of execution obtained without notice on another party – suppression of material fact – is consideration whether execution should have been stayed

Civil Procedure – stay of execution – based on balance of justice or convenience

Civil Procedure – stay of execution pending appeal – serious issue on appeal

Civil Procedure – stay of execution – are damages adequate remedy

Civil Procedure – stay of execution – parties cannot pay – damages inadequate remedy



Civil Procedure – stay of execution – parties must provide full disclosure of ability to pay

Costs – settlement or compromise – binds parties and a court – costs cannot be assessed after compromise

Costs – assessment – procedure and practice – currently the practice and procedure in the High Court of England – Civil Procedure Rules, 1998

Costs – assessment – High Court – Commercial Division – practice and procedure – currently the practice and procedure in the High Court

Costs – assessment – practice and procedure – summary assessment – detailed assessment – court must make an order for either

Costs – assessment – practice and procedure – no order for summary or detailed assessment – construed as order for detailed assessment

Costs – assessment – practice and procedure – request of a notice of assessment – only if the paying party serves disputed points

Costs – High Court – to be taxed by the Registrar of the High court – Supreme Court cannot tax costs of the High Court

High Court – Commercial Division – practice and procedure – absence of practice and procedure in the High Court (Commercial Division) Rules – rules of court of the High Court apply

Costs – assessment – delay by receiving party to file a bill of costs – extension of time unnecessary

Courts – Jurisdiction – can be raised – suo motu – by parties – at any stage – even after judgment

Jurisdiction - can be raised suo motu – by parties – at any stage – after judgment

Jurisdiction – not conferred by agreement of parties – even if a court signs a consent order

Statutes – applied law – interpretation – with minor variations as to content – interpreted according to the law at the place and time of applied statute

Statutes – year – refers to year when statute passed or legislation effective

Statutes – words across legislation – presumed to have same meaning across statutes

