



REPUBLIC OF MALAWI
MALAWI JUDICIARY
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL DIVISION
CIVIL CAUSE NO. 28 OF 2018

BETWEEN

MR STOWELL GONDWE.....1ST CLAIMANT
BAULENI W. E MKWEZA.....2ND CLAIMANT
MALITA NASONI.....3RD CLAIMANT
ANGELLA CHUNGA.....4TH CLAIMANT

-and-

HON. DR LAZARUS CHAKWERA, PRESIDENT OF
MALAWI CONGRESS PARTY..... DEFENDANT

Coram: Honourable Mr. Justice J. M. Chirwa
Kaphale, Counsel for the Claimants
Nthewa, Counsel for the Respondent
Chitatu, Official Court Interpreter

RULING

A. Background

The 4 Claimants herein commenced these proceedings by a Specially Endorsed Summons issued on the 26th day of January, 2018 claiming the following reliefs;

- (a) A Declaration that the Defendant acted in breach of articles 30(1), 30 (2) and article 35 (1) of the Constitution of the Malawi Congress Party when by a Memorandum dated 27th August, 2015, he announced the appointment of new members of the party to non- existent positions in the National Executive Committee of the party to other positions (whether existing or non- existing) within the National Executive Committee of the Party;
- (b) A Declaration that only a convention has the power under article 66(1) of the Constitution of the Malawi Congress Party to emend the Constitution to grant the President the power to alter the composition of an elected National Executive Committee and that such constitutional amendment did not take place prior to the Memorandum of 27th August, 2015,
- (c) A Declaration that the re-constitution or reformulation of the National Executive Committee of the Malawi Congress Party that occurred on 27th August, 2015 or any that may have occurred thereafter is therefore null and void;
- (d) An order that the National Executive Committee of the Malawi Congress Party is as constituted in 2013 and February, 2014 and not in 2015 or thereafter;
- (e) An interim injunction order barring or restraining the Defendant from recognizing persons that had been elected into the National Executive Committee of the Party at the 2013 Convention but whom he shifted to other positions by Memorandum of 27th August, 2015, as holders of the new positions he shifted them to and also restraining or barring the Defendant from inviting to any National Executive Committee meeting of the Malawi Congress Party all such persons that he unilaterally appointed into non-existent offices in the said committee of the Party by Memorandum dated 27th August, 2015 until trial of this action or until further order,

