



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO 2292 OF 2010

BETWEEN:

CHIMWEMWE FREDRICK.....PLAINTIFF

- AND -

FRANCIS FREDRICK.....DEFENDANT

CORAM : THE HON. JUSTICE POTANI
Mr Kalanda, Counsel for the Plaintiff
Doreen Musicha, Official Interpreter
Singano (Mrs), Senior Personal Secreary

ORDER

This is a notice of motion by the plaintiff for an order of committal for alleged contempt of court on the part of the defendant.

It is a requirement under the law that before a party can be punished for contempt, the court must be satisfied that such a party is aware of the order he allegedly has disobeyed and also of the contempt proceedings themselves.

There is abundant evidence in this case both by way of affidavits and oral evidence of the plaintiff, Chimwemwe Fredrick and one Axton Mwavu that on November 9, 2010, the court ordered the defendant, through a mandatory order of injuction, to pay the sum of K177, 750.00 being school fees for children he fathered in a relationship with the plaintiff. The order was duly served on the defendant but has since not been complied with.


There is also evidence that the defendant was duly served with the notice of hearing of these contempt proceedings. He has, however, without any

explanation not availed himself and thus essentially has not shown cause why he should not be punished for contempt.

Contempt of court is a serious matter as it tends to undermine the administration of justice. The court therefore has the duty to see to it that those in contempt of court must be properly punished in order to preserve and uphold the due process of the law. The court bears in mind that the ultimate aim of contempt proceedings is to ensure compliance with court orders. In this regard, the court has power to impose any penalty other than imprisonment if circumstances of a given case permit. In the circumstances of this case, the court orders that unless the defendant pays the sum of K177,750.00 into court for onward reimbursement to the plaintiff within 14 days from the date of service of this order he shall be liable to undergo civil imprisonment for 21 days.

Costs of these contempt proceedings to be borne by the defendant.

Pronounced in Open Court this day of March 22, 2011 at Blantyre.



H.S.B. Potani
JUDGE