



IN THE HIGH COURT OF MALAWI

COMMERCIAL DIVISION

BLANTYRE REGISTRY

Commercial Cause No. 52 of 2024

BETWEEN

ZAHRA ALI.....CLAIMANT

AND

FIRST CAPITAL MALAWI.....DEFENDANT

FINANCIAL INTELLIGENCE AUTHORITY.....ADDED PARTY

Coram: **Manda, J**

Mdala for the Claimant

Chaponda for the Defendant

Chitsime for the Added Party

M. Kachimanga Court Clerk/Interpreter

RULING

This matter was brought to me for an ex parte application for a mandatory injunction for the release of the claimant's funds which are being held by the defendant bank. It being a mandatory injunction, I gave the defendant 7 days to challenge the Order and for the matter to come interparty. The matter was duly set down for a hearing.

Before the matter could be heard inter parties, I was made aware of a Ruling by Justice Chipao on a matter between the Added Party and the Claimant, a Criminal matter. Having gone through that Ruling, a few things became clear. First is the fact that the cause of action by the claimant

was based on the Criminal proceedings that were pending before Justice Chipao. This was not properly disclosed to this court, the claimant thus lied to and mislead this court.

Following the Ruling, the second thing also became clear, which is the fact that there is now a determination by a Court of concurrent jurisdiction on the facts regarding the Claimant's action before this Court. This being the case, there is no longer a triable issue for this court to make a determination on as any determination that this Court might make would likely contrafactual to the findings of Judge Chipao.

Finally, by coming here when the claimant clearly knew that there was a pending matter before another Judge, the claimant abused the court process. This is totally unacceptable as such antics bring the courts into disrepute. On this note and with the facts before me, I must categorically state that I cannot continue entertaining this matter any longer. There is no point.

Rather I would proceed to strike out the claimant's action as there was clearly no cause of action. An action cannot be brought against the actions or decisions of a court. The law is clear in that regard. And if one is not satisfied with a decision of a court, the recourse would be an appeal and not to bring an action in a court of concurrent jurisdiction! In view of this, the injunction which I temporarily granted to the claimant, is discharged with all the contempt it deserves.

The claimant is also condemned in costs which may so far have been incurred.

Made in Chambers this 15th day of April 2024

A handwritten signature in black ink, appearing to be 'K.T. MANDA', written in a cursive style with a large loop at the end.

K.T. MANDA

JUDGE