

# Ramuzani Juma Mahommed v Malawi Electoral Commission

<b>Court:</b>	High Court of Malawi
<b>Registry:</b>	Civil Division
<b>Bench:</b>	Honourable Justice Etness Chanza
<b>Cause Number:</b>	Election Case No. 70 of 2025
<b>Date of Judgment:</b>	October 09, 2025
<b>Bar:</b>	KB Soko, Counsel for the Applicant.

## Head Notes

**Electoral Law** - Election matters - Injunctions - Courts (High Court) (Civil Procedure) Rules Order 19 Rule 19 - Application for interim injunction must be made inter partes.

## Summary

The Applicant sought an interlocutory order of injunction from the High Court, Principal Registry, suspending the declaration of the winner for the Parliamentary Election in Nsanje South Constituency and all consequential processes. This application arose out of an election petition the Applicant had filed on 7th October 2025, challenging the results declared by the Respondent, the Malawi Electoral Commission, via a Corrigendum issued on 2nd October 2025. The application for the injunction was filed

on a **"Without Notice"** basis and was brought under Order 10 Rule 27 of the Courts (High Court) (Civil Procedure) Rules.

The application was **accordingly dismissed**. The decisive rationale was that the Applicant had brought the application on a **"Without Notice"** basis, which contravened **Rule 19 of Order 19**. Furthermore, the Court noted that the application had been brought under a **wrong statutory provision** (Order 10 Rule 27), making both the manner and the provision used erroneous.

## Legislation Construed

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Subsidiary Legislation

Courts (High Court) (Civil Procedure) Rules ( Order 1 Rule 4, Order 10 Rule 27, Order 19 Rule 19)

## Judgment

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### **Ruling on Without Notice Application For An Order of an Interlocutory Injunction -Order 10 Rule 27**

1.This is the Court's ruling dismissing the Applicant's application for an order of injunction which has been brought under Order 10 Rule 27 of the Courts (High Court) (Civil Procedure) Rules.

2.The background for this application is that on 7th October 2025 the Applicant herein filed a Petition in which he is seeking to challenge the declaration of the results of the just ended Parliamentary elections in respect of Nsanje South Constituency as declared by the Defendant through a Corrigendum of the results which it issued on 2nd October, 2025. This matter which was assigned to this Court on 8th October, 2025 is yet to be heard.

3. It is in this respect that the Applicant has filed the present application, asking this Court to issue an interlocutory order of injunction suspending the declaration of the winner of the Parliamentary Election for Nsanje South Constituency as declared by the Defendant; and any other process ancillary and consequential thereto, including the swearing in and assumption of office of the said winner, until the disposal of the said Petition as has been filed by the Petitioner.

4. This Court having gone through the "Without notice" application by the Applicant herein; and having gone through the relevant provisions on the subject matter, has noted that the manner in which the application herein has been brought before this Court; as well as the provision under which it has been brought to this Court are both erroneous.

5. The Applicant's Petition which is pending before this Court is clearly an election matter as defined under Rule 4 of Order 1 of the Courts (High Court) (Civil Procedure) Rules. In terms of these Rules, all election matters are supposed to be dealt with in accordance with the provisions as provided under Part II of Order 19 of the Courts (High Court) (Civil Procedure) Rules.

6. Specifically, Rule 19 of Order 19 of the Courts (High Court) (Civil Procedure) Rules provides that an application for an interim injunction in connection with an election matter must be made inter partes.

7. The Applicant's application herein having been made on a "Without Notice" basis has therefore been brought to this Court in contravention of the said Rule 19 of Order 9 of the Courts (High Court) (Civil Procedure) Rules; and also under a wrong statutory provision. This Court therefore accordingly dismisses the Applicant's application on that basis.

Pronounced in Chambers this 9th day of October,

2025