

Catherine Gollen Majamanda v Edward Chileka Banda and Malawi Electoral Commission

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Kondwani Banda
Cause Number:	Election Cause No. 10 of 2025
Date of Judgment:	September 23, 2025
Bar:	Mr. Enock D A Chibwana, Counsel for the Applicant.

Head Notes

Electoral Law - Election matters - Injunctions - Application for interim injunction must be made inter partes.

Summary

The Applicant sought an interlocutory injunction without notice from the High Court, Lilongwe District Registry, to stop the Second Respondent, the Malawi Electoral Commission, from releasing parliamentary election results for the Lilongwe Mapuyu South Constituency. The Court noted that the application was brought under the wrong procedural rule as election matters are governed by Order 19 of the Courts (High Court) (Civil Procedure) Rules. The court also noted that the correct procedural rule requires an *inter parte* application for an interim injunction in electoral matters,

hence, the application herein, being an *ex parte* one, was contrary to the governing rules. The application was dismissed.

Legislation Construed

Subsidiary Legislation

Courts (High Court) (Civil Procedure) Rules (Order 10, rule 27; Order 19, rule 13; Order 19, rule 19).

Judgment

Ruling on a without notice application for an order of interlocutory injunction - order 10 rule 27

At 15.30 hours today, this court received a without notice application for an order of interlocutory injunction brought by one of the parliamentary aspirants (in the recently held Presidential, Parliamentary and Local Government Elections whose final results as at the time of writing this order were yet to be announced) for Lilongwe Mapuyu South Constituency answering to the name of Catherine Gollen Majamanda and proceeded to peruse through the application to appreciate its need for urgency as expressed by the Applicant.

This court having gone through the file, noted that the Application is brought under **order 10 rule 27 of the Courts (High Court) (Civil Procedure) Rules**. The same states as follows:

The court may, on application, grant an injunction by an interlocutory order when it appears to the court -

(a) there is a serious question to be tried;

(b) damages may not be an adequate remedy; and

(c) it shall be just to do so,

and the order may be made unconditionally or on such terms as or conditions as the court considers just.

In the application, the applicant is inviting the court to grant her an order of interlocutory injunction against the Malawi Electoral Commission not to release the parliamentary results for the Lilongwe Mapuyu South Constituency deeming or recognizing the first Respondent as winner until the determination of the outstanding matters on alleged irregularities observed and allegedly reported to it. The said irregularities are said to originate from a number of several polling stations in the constituency.

However, before proceeding any further, this court notes that the Application has been brought under wrong provisions of the procedural rules. The matter herein is an electoral matter properly so called. It is not just any other matter. And being such, the proper provisions in handling electoral matters are **Order 19 rule 13**(as regards commencement) and in light of the application before this court, it is **Order 19 rule 19 of the Courts (High Court) (Civil Procedure) Rules** (as regards injunctions). The said provisions states as follows:

An application for an interim injunction in connection with an election matter shall be made *inter partes* and shall be heard before a judge.

Reverting herein, one notices that the application is made without notice, meaning it is an *ex parte* contrary to the above-cited guiding provision. Essentially, therefore, counsel did not do a good job. This application cannot therefore stand. It is dismissed accordingly.

It is so ordered.

Made in Chambers this 23rd day of

September, 2025