

Year  
1974

THE HON THE CHIEF JUSTICE

**IN THE MALAWI SUPREME COURT OF APPEAL**

**AT BLANTYRE**

**M.S.C.A. CIVIL APPEAL NO 3 OF 2005**  
(Being High Court Civil Cause No. 82 of 2004)



**BETWEEN**

**LOVENESS GONDWE.....1<sup>ST</sup> APPELLANT**

**MALAWI ELECTORAL  
COMMISSION.....2<sup>ND</sup> APPELLANT**

**-AND-**

**CATHERINE GOTANI NYAHARA....RESPONDENT**

**BEFORE: THE HON. THE CHIEF JUSTICE  
THE HON. JUSTICE MTEGHA, SC, JA  
THE HON. JUSTICE TAMBALA, SC, JA**  
Chilenga/Mumba, Counsel for the 1<sup>st</sup> Appellant  
Kaphale, Counsel for the 2<sup>nd</sup> Appellant  
Ngwira, Counsel for the Respondent  
Kachimanga/Daudi (Mrs), Official Interpreter



**TAMBALA, JA**

## **JUDGEMENT**

The present appeal is against the decision of Chikopa, J., in which the learned Judge vitiated the result of Parliamentary election which was held in Mzimba West Constituency on 20<sup>th</sup> May, 2004. Loveness Gondwe, the 1<sup>st</sup> appellant was one of the six contestants during the election in Mzimba West Constituency. She was declared winner of the election by the Malawi Electoral Commission, the 2<sup>nd</sup> appellants in this appeal. The respondent is Catherine Gotani Nyahara, another contestant during the election in Mzimba West. The result of the election showed that she secured a second position after the 1<sup>st</sup> appellant. She was not satisfied with the result of the poll. She brought an action by way of petition in the High Court at Mzuzu and sought a declaration that the election in Mzimba West was not free and fair. The respondent also sought an order from the Court for a re-run.

In the Court below, the respondent's petition alleged a number of irregularities which included:

- a. That there were threats, intimidation, illegal campaigning and acts of violence committed by the supporters and husband of the 1<sup>st</sup> appellant.

