

SIBANGANI MLANDU
versus
ELECK MKANDHLA

HIGH COURT OF ZIMBABWE
MAKARAU J
HARARE, 15 January 2003

hh-04-03

ELECTION PETITION: GOKWE NORTH.

Advocate *Zhou* for the petitioner
Advocate *Matika* for the respondent.

MAKARAU J: The petitioner was the candidate for the Movement for Democratic Change Party (“MDC”), in the general elections held on 24 and 25 June 2000. The respondent, who stood as the candidate for the Zimbabwe African National Union (Patriotic-Front) (“ZANU-PF”), won the parliamentary seat by 15 923 votes. The petitioner garnered 3 967 votes in the election.

After the respondent had been returned to Parliament, the petitioner filed this petition, seeking an order declaring null and void the election of the respondent, and that there be a fresh election in the constituency. He alleged that the respondent and his supporters were guilty of corrupt practices during the election in that members of the electorate were treated at a school within the area but outside the constituency. He further alleged that members of the electorate were assaulted and coerced into supporting and ultimately voting for the respondent and to refrain from voting for him and that his campaign was disrupted in that members of his campaign team were abducted and tortured and had their property burnt and destroyed.

The respondent opposed the petition.

In his opposing affidavit, the respondent denied that he or any of his election agents participated in the acts complained of. He denied that he ever gave any instructions to anyone or to members of his party to carry out the acts complained of. He averred that he prayed for peace and unity in the constituency just before the polling dates and is of the view that the acts of violence alleged by the petitioner are grossly exaggerated. He had no control over members of his party and he is aware that there were members of his and the respondent’s parties who were overzealous and participated in acts of violence. He did everything he could to discourage violence and intimidation during the period.

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In support of his allegations, the petitioner himself gave evidence and called fifteen witnesses.

In his evidence, the petitioner testified as to how on his way to the party offices in Kwekwe, he was on 18 April 2000 assaulted by alleged ZANU-PF members who were wielding sticks and chains. These people had followed him from the constituency and waylaid him at Gokwe Centre. He was rescued by a police officer who ensured that he boarded a bus safely. As a result of the assault, he abandoned the journey.

On another occasion, in May, he was assaulted by a group of 6 people who accused him of being a supporter of puppets. As a result of the assault, he abandoned his intention to campaign at Chitekete Business Centre.

At the beginning of June 2000, when he was returning from the nomination court, he was warned that there were people who were looking for him. He then went into hiding. He later heard that a ZANU-PF rally was being held at his house in his absence. He returned to the area but was advised against going to his residence. He went to Zhomba Police Station instead which is about 900 m from his residence. He remained at the police station until the proceedings at his residence had been wound up. He then went to view his homestead in the company of police officers. His kitchen hut had been burnt down, doors to his huts had been broken down and his clothes and 3 bales of cotton had been burnt. (The petitioner produced into evidence photographs of the burnt property). The police informed him that the people who had burnt down his property had been arrested.

When he was deploying polling agents, he accidentally approached a group of ZANU-PF supporters who then surrounded his vehicle and took possession of the car keys. He and the people in his company were held hostage overnight and were released when news got to the group that a police vehicle was headed their way. Due to the overnight detention, he was unable to deploy polling agents at some stations.

Some of his polling agents declined to be deployed at certain stations as people were being assaulted at these stations. At 12 polling stations, his agents had been dispersed while he was in overnight detention. When the polls had been taken, the motor vehicle that went to collect the ballots from the polling stations where he did not have agents broke down. A sole council driver was sent in a council vehicle to collect the ballots. The driver returned with the ballots on his own.

The witness conceded that he never saw the respondent during the times he ran in with supporters of the respondent's party. He however held the respondent responsible for these attacks, as the respondent was the one who was carrying the ZANU-PF ticket and the alleged acts of violence were being done to intimidate the petitioner and members of

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his party.

The witness gave his evidence well. He appeared nervous initially but withstood cross-examination well. I shall rely on his evidence. Next to give evidence in support of the petition was Sithembeni Nkazana. She resides in the Gokwe North constituency. She is a member of the MDC and during the general elections, she was in the constituency. On 6 June 2000, a ZANU-PF campaign meeting was held near the shop that she and her husband, one Wonder Manhango, ran. Her husband was called to the meeting and was told to bring all the MDC campaign material that he had with him. He refused. He was the Organising Secretary for the MDC in the area. The ZANU-PF supporters attending the meeting then forcibly gained entry into the shop and forced him to attend the meeting and declare that he had been a lost sheep who had now returned to the fold. He only returned home two days later and was told to attend a rally to be addressed by the President at Gokwe Center the following day. He did not attend the rally. A truck-full of people came to the shop after the rally. Some of the people who had been in the truck inquired as to why her husband had missed the rally. He was then assaulted and dragged to the motor vehicle, into which he was thrown. The motor vehicle was driven away. It came back after 1 hour but without her husband. The motor vehicle was once again driven away and minutes later, one of the people who had bundled her husband away approached her and advised her that her husband had died and that he, the informant, could protect her if she accepted his advances. She declined the protection and the advances and went to some sympathiser's house to hide. She later received information that her husband had been found in a ditch and had been taken to hospital. She next saw her husband in hospital four days later, suffering from assault injuries. He was discharged from hospital another four days later only to be readmitted the following day. He then passed away.

The witness impressed in the witness box. She was clear in her testimony and was not shaken in cross-examination. She gave the impression of being honest and did not seek to exaggerate her evidence. I shall accept her evidence as reliable.

Misheck Nyoni was then called next. He was in the constituency during the general elections. He is a member of the MDC. He resides 5-6 km away from the respondent's residence. He belongs to the same church as the respondent and used to attend church together with the respondent at times. He was involved in the general elections in the capacity of election agent for the petitioner.

On 15 June 2000, he witnessed ZANU-PF youths pulling down camping MDC posters that he had put up. This was at Zhomba Business Centre. He also witnessed the fire that gutted the petitioner's residence when he was in the bush, hiding from a group of ZANU-PF youths. He noticed the burnt down hut and heard one of the local ZANU-PF leaders addressing

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the gathering while the fire was raging. He then ran to his homestead and advised his children to run away.

The witness gave his evidence well. He impressed as a mature villager who is honest. He did not seek to exaggerate his evidence. Under cross-examination he readily conceded that he had not heard the respondent talk about violence at any time. He also testified that he never heard from anyone that the respondent is prone to violence. He was a good witness.

Next to be called by the petitioner was Katazo Mutero. He resided in the constituency during the general elections. He was a member of the petitioner's campaign team. He testified as to how the MDC campaign in his area was disrupted by supporters of ZANU-PF who would demand that they surrender their campaign material to them. On 20 June 2000, he fled from his homestead when a group of ZANU-PF supporters numbering between 150 and 200 came to his home singing songs denouncing him. Upon his return to the homestead, he found that his wife and children had also ran away. When he heard people approaching his homestead at night he went into hiding in the bush. From where he was hiding, he saw the group set on fire his hut and its contents. He then ran away and lodged a report with the police.

At the time that his witness gave evidence, he indicated to the court that he was unwell. This may account for his poor demeanor in the witness box. I also formed the impression that the witness tended to exaggerate in his testimony and was prone to testifying on issues that are not relevant to the election petition before me. For these reasons, I will only rely on his evidence where other reliable evidence corroborates it.

The petitioner also called one Moses Manyenyeni. He gave the following evidence. He is a member of the MDC. During the polling days, he was in hiding in the bush as he feared for his life. On 23 June 2000, ZANU-PF supporters had been to his residence, urging him to abandon his party and to join their party instead. His house was damaged, his wife was stoned during the melee. At this, he mastered some courage and threatened to kill some of them. The assailants then ran away. He left his homestead and went to report the matter at the local police station. He attended some ZANU-PF rallies at which the members of that party were urged to deal with members of the opposition party.

The witness appeared tense and impatient when he gave his evidence-in-chief. The reason for his attitude was revealed under cross-examination. An innocuous question was put to him and he unexpectedly broke down and cried. When he calmed down, he revealed that he was most unsettled as he had received further threats that his family was to be killed that day on account of his coming to testify in the election petition.

The petitioner then called Martin Mangiseni. He resides in Gapa village, in the Gokwe North constituency. During the pre-election period, he was living in hiding, as he was afraid of being assaulted by ZANU-PF

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supporters. He went into hiding after being assaulted by supporters of ZANU-PF on 17 June 2000 when he was coming from Harare. He was assaulted after being identified as a member of the MDC and therefore a traitor. He was assaulted by sticks and sjamboks for a period of about 45 minutes. He returned to his homestead after the election to find his property destroyed and 3 bales of cotton burnt. He reported the matter to the police six days later. He did not immediately seek medical attention but did so in due course.

He attended some of the respondent's election rallies. At these rallies, he heard the respondent urge his supporters to manhandle MDC supporters but not to kill them.

This witness had poor demeanor in the witness box. He appeared nervous, giving the impression that he was not confident in what he was testifying. He tended to exaggerate in his evidence. I am reluctant to rely on his evidence for these reasons.

Next to be called to testify in support of the petition was one Iganatius Makiwa. His testimony was very brief. He is a Branch Organising Secretary for the MDC. On 22 June 2000, he fled his home when a group of ZANU-PF supporters attacked his neighbour's homestead. He, together with his wife fled to a mountain 2 kilometres away where they spent the night. They returned to the homestead the following morning to find their property intact and undisturbed. He decided to spend the following day inside the hut and did not come out. As a well-known member of the MDC, he feared being assaulted. He did not go out to vote for the same reason.

This witness gave his evidence in a very forthright manner. He was not shaken in cross-examination and did not seek to exaggerate. His evidence is credible and I shall accept it.

Itai Mdhuyu Mangiseni also gave evidence in support of the petition. He is the son of the witness Martin Mangiseni. He received word that his father was missing from home and proceeded home by bus. At a shopping center 5 km away from his home, the bus stopped and some people got in looking for his father. These people were ZANU-PF supporters. They apprehended him and made him disembark from the bus. They then assaulted him before he ran away to a nearby school. He went home the following day to find young children only at home.

The witness gave his evidence well and did not seek to exaggerate. I shall accept his evidence as credible.

Moses Maposa also testified in support of the petition. On 15 June 2000, he went to Gokwe Centre to encash a cheque. He found the bank closed. The following morning the bank did not open, as there was a rally to be addressed by the President. ZANU-PF supporters were marching at the business centre and assaulting anyone they met. He sneaked away to avoid them. Everyone was being driven to attend the rally and he too ended up at the rally. He and his children did not vote, as they feared being assaulted even though they had received information that the

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violence had come to an end.

This witness gave his brief evidence well. He was not shaken under cross-examination. He did not exaggerate and maintained that he was not personally assaulted during the period. He also acknowledged that there were some peaceful days in his area. For these reasons, I find his evidence credible and will accept it.

Mbulawa Mapani also testified. He resides in the constituency and is a member of the MDC. During the run-up to the general elections, he was in the constituency. On 20 June 2000, he was at Max Mutiri's homestead when he saw a group of ZANU-PF supporters approach. Max Mutiri suggested that they flee. Max Mutiri then ran away while he held his ground. Members of the group pursued Max Mutiri but did not catch up with him. They then turned on the witness. They interrogated him and took him to his homestead to retrieve his MDC membership card. He surrendered his card to them. They then took him to Tenda School where they had assembled. At the school, they assaulted him on the soles of his feet. He was assaulted for about 7 minutes and then released to go home. He also witnessed two other people being assaulted in a similar manner. When he returned to his residence, he found everything intact. On 23 June, three days later, ZANU-PF supporters came to his residences and ordered him and his family out of their hut. This included his wife, his two sons, their wives and his grandchildren. They asked for all MDC campaign material. After being threatened, he gave them a t-shirt. The group was made up of about 30 people. He was then taken back to Tenda School together with his wife and children and daughters in law. Only the children remained behind. At the school, they were all assaulted. They were kept at the school for 3 hours after which they were released to go. The following day was polling day. He voted freely but not for the candidate of his choice. He had been told that there would be photographs in the voting booth. He had also been told which candidate to vote for during the period he was with his assailants. This witness gave his testimony in a dignified manner that impressed the court as being based on honesty. He did not exaggerate and his responses under cross-examination were both clear and forthright. I have no reason for rejecting his testimony.

The petitioner also called one Sylvia Zvoushe. She gave the following evidence. She resides in the constituency and is a known member of the MDC. Sometime in June 2000, supporters of ZANU-PF assaulted her after she had failed to attend a ZANU-PF meeting to which she has been called. Her assailants were using an assortment of sticks and logs to assault her. During the time she was being assaulted, she caused her children to leave the homestead for fear that they would also be assaulted or would be distressed and cry upon seeing her being assaulted. After assaulting her, the assailants took away her cotton and destroyed the windowpanes of her house. On the night of the same day, they came back for her and took her to Tenda School where they

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assaulted her again. A few other people were also assaulted at Tenda School in her presence. She was assaulted for belonging to the MDC party. She was released around 1.00 a.m. She did not vote during the polling days as she had run away from home after the assault.

This witness gave her evidence well and did not seek to exaggerate. She was not shaken under cross-examination. For these reasons, I shall accept her evidence.

Ezekiel Magiya also gave evidence on behalf of the petitioner. He resides in the constituency and is a member of the MDC. In June 2000, before the elections, he was assaulted at Tchoda Shopping Centre when he failed to produce a ZANU-PF membership card. At the time of his assault, he saw one Herbert Chinakura, a member of his party, being assaulted by a different group of ZANU-PF supporters. He was assaulted by baton sticks and knobkerries. The assault did not take long. After the assault he went into hiding and did not vote as a result.

The witness gave his evidence well. He was not shaken under cross-examination and was refreshingly candid in his responses under cross-examination. He did not seek to exaggerate especially about the nature and duration of the assault mounted upon him. I shall accept his evidence.

Pauline Murefu also testified. She is the wife to Martin Mangiseni one of the witnesses. She testified as to how a group of ZANU-PF supporters came to their residence and ransacked the house while looking for her husband. While the search was going on, she was under guard outside the house. She was assaulted during this period and was threatened with further assault at Tenda School. This occurred on 23 June 2000. The group eventually left, taking with them her three teenage sons. She then went into hiding until after the elections. She did not vote. Whilst in hiding, she came across other women members of her party who were also in hiding.

The witness was forthright in her responses and maintained good eye contact throughout her testimony. I will accept her evidence as being credible.

Torerai Mutiri was called next. He testified as to how on 23 June 2000, he and his brother were collected from their homestead within the constituency to Mashuma School where they were ordered to renounce their membership in the MDC and to support ZANU-PF. At the school, they were assaulted using logs, sticks and strips of rubber. They were later taken to another school that is 7 km away. At this school, they were made to march and sing. At this school, they were also told to vote for the respondent. They were released on the morning of 24 June 2000. He did not vote as he had been told while at the last school that his vote would be known.

This witness had poor demeanor in the witness stand. His evidence was at times not credible and appeared exaggerated. Unless corroborated by other reliable evidence, I shall not rely on it.

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The last two witnesses to give evidence on behalf of the petitioner were Naison Mapani and Abel Mapani, brothers, and the sons of Mbulawa Mapani who also testified. The two witnesses corroborated their father's evidence as to how they were taken to Tenda School where they were assaulted for being members of the MDC. They were kept at the school until the first polling day. Naison did vote but not for the candidate of his choice as he had been told that his vote would be known. This was told him while he was at the school. He had not voted previously and believed that his vote could be detected. Abel was released home when he indicated to his captors that he was not feeling well as a result of the assault. He voted for the respondent as he had been instructed to do while at Tenda School. The respondent was not his candidate of choice. Although there was a slight element of exaggeration in the evidence of Naison, I found the two witnesses credible on the whole. Their evidence was corroborative of each other and also of their father's.

After leading the above evidence, the petitioner closed his case.

The respondent gave evidence and did not call any witness. His evidence was to the following effect. Before the elections, he was heavily involved in developmental work in the whole constituency. This he did in his capacity as Chairman of the Zimbabwe Farmers Union and as Chairman of the Campfire Project. At one stage, he was also the local Councillor.

He never campaigned against the MDC. He only campaigned in the primary elections that saw him become the candidate for his party. He had no motor vehicle to use in campaigning and his party did not give him one. This was so even after he won the primary elections of his party and was entitled to use the party structures in his campaign. He did not use any of the party structures in his area. He did not get any support from members of his party during this period. Members of his party were working against him and he singled out one L Munotengwa as actually working against him even after the elections.

He comes from a Christian family and does not like to get involved in issues of violence. He does not put on party garments and has never done so. He will never do so as he wishes to dissociate himself from the violence associated with wearing party garments. He did not address any rally during the period in question.

No one informed him that Sthembeni Magutshwa's husband had died at the hands of ZANU-PF supporters during the run-up to the elections. He did not know the deceased during his lifetime. In his opinion, the death of the deceased was a terrible and dirty thing.

He stays in the same area with the petitioner and they are related. He knows the homestead of the petitioner but was unaware that it had been burnt down as he always sees the brick walls that are still standing. He has no ill feelings towards the petitioner who he wishes be blessed. He wishes the petitioner to be the next Member of Parliament if that can be done without unleashing violence on the people of the constituency.

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He knows the witness Misheck Nyoni as a fellow pastor in his church. He has no ill feelings towards this witness who campaigned for him to be a councillor and in the primaries. He was unaware of Nyoni's connection with the MDC.

No one reported to him that people were being assaulted in the constituency. He has no knowledge of the alleged violence in the constituency. No one informed that certain schools had been set up as bases for his campaign in the constituency. He did not know that there were people in the constituency who were sleeping in the bush as a result of political violence.

The witness, who is of advanced age, gave the impression of being senile. He did not respond to questions put to him in cross-examination but went on about issues that were irrelevant. Had I not formed the impression that he appears senile, I would have found him very evasive. He distanced himself from his party and castigated members of the party for not supporting his campaign. He denied that he was afforded any assistance during the run up to the elections by his party and testified that they told him they did not have any money. His evidence is on the whole incredible. It would appear like he was not in the constituency at all during the period in question. In addition, he did not give any evidence in support of the very cogent reasons given in his opposing affidavit for resisting the petition. For these reasons, I will reject the evidence of this witness as being unreliable.

On the basis of the evidence led before me, I now have to determine whether or not the petitioner is entitled to the order he seeks.

In another election petition that came before me, I had occasion to express my reservations as to the suitability of civil trial proceedings to determine an election petition. I repeat those reservations herein.

In my view, the unsuitability of civil proceedings to determine an election petition is made more apparent in this petition where effectively, no evidence has been led in rebuttal of the corrupt practices alleged by the petitioner. In circumstances such as these, what role does the court have to play in establishing whether or not the alleged corrupt practices occurred in relation to the election under scrutiny? Does it sit as an inquisitorial body or as a civil court with enhanced powers to call evidence?

In *Makamure v Mutongwizo and Others*,¹ DEVITTIE J, in dicta that I find quite informative on the history and effectiveness of the Electoral Act in enforcing electoral morality, had this to say:

“The features of the Electoral Act which deserve to be high lighted are these:

- a) it establishes an effective inquisitorial machinery to enforce electoral morality. It subjects candidates and their agents to public scrutiny in open court in respect of electoral*

¹ 1998 (2) ZLR 154 (H).

malpractices leveled against them. A witness in an election petition is obliged to answer questions that may be incriminatory. The High Court is given inquisitorial power: it may summon and examine a witness not called by either party.”

In this dictum, DEVITTIE J loosely described the High Court determining an election petition as having inquisitorial powers. However, in the Buhera North election Petition,² the same judge qualified his description of the powers of the High Court as follows:

“.....(although) this court has the statutory duty to report on the existence of corrupt and illegal practices with reference to the election in (the constitution) and thus the power to make inquiries in this regard, it is nonetheless a judicial tribunal and not an inquisitorial one; it sits as a court to hear and determine according to law and not as a commission of inquiry which is not enjoined to decide disputed questions in accordance with the strict rules of evidence. As was stated by Mr Justice Willes (see Taunton Election petition 1874 30 LT 125 at 127):

‘No amount of evidence ought to induce a judicial tribunal to act upon mere suspicion, or to imagine the existence of evidence which might have been given by the petitioner, but which he has not thought to bring forward and to act upon that evidence, and not upon the evidence which really has been brought forward.’.”

I am inclined to agree with this description of the powers of the High court sitting in determination of an election petition. In my view, it remains essentially a judicial tribunal determining a suit brought by one party against the other. In view of the gravity of the issues that inherently arise from election petitions, the court is granted wider powers than it ordinarily enjoys in civil matters where, without the consent of the parties, the court cannot call any evidence. It appears to me that the powers granted the High Court by s 138 of the Electoral Act [*Chapter 2.01*] (“the Act”), is no wider than those granted to the criminal court by s 232 of the Criminal Procedure and Evidence Act, [*Chapter 9.07*] to call any witness whose evidence appears to it to be essential to the just decision of the case. In relation to a criminal trial, this power has been described as not empowering the court to act as a second prosecutor and make a case against the accused where none existed before.³ I would hold that the same position applies to the powers granted this court by s138 of the Act. In my view, there

² HH 67/01

³ See *R v Singh* 1943 NPD 232.

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is no indication in the legislation to show that in enacting s 138 of the Act, the legislature intended the court to use this power to supplement an otherwise deficient or non-existent case for any of the parties. The common law position on courts that descend into the arena is trite. I do not read an intention to alter that common law provision in s 138. If the legislature desired that the court determining an election petition acts as a general commission of inquiry with powers to call any evidence, then in my view, it would have expressly provided so.

It remains for me in the absence of any rebutting evidence from the respondent to consider whether the evidence led by the petitioner is adequate for the relief that he is claiming.

The law relating to elections is not founded on any Roman Dutch principles. This is so because the whole procedure of parliamentary elections is foreign to Roman Dutch law and is derived from English statute from which we have heavily borrowed. It follows therefore that in determining election petitions, I must be guided first by the four corners of the Act and where in doubt about the meaning of any provision of the Act, I may be guided by English legal precedent, provided the English statute and our own statute carry the same or similar provisions.⁴

I am further to be guided by general principles coming from the English bench on the purpose of the law relating to elections.

It has been held that the law on elections is meant to uphold electoral morality. At the same time, the same courts have held that a judge should only upset an election if he or she is satisfied beyond all doubt that the election is void. This is so because the return of a member is a serious matter and should not be lightly set aside.⁵

Turning now to the facts of the matter before me, uncontroverted and reliable evidence has been led from not less than ten villagers in the constituency that they were subjected to intimidation and violence on account of their membership of the MDC during the run up to the election. Properties were destroyed and burnt as part of the intimidation. One villager lost her husband to the political violence. An elderly member of the community was assaulted in front of and together with his daughters-in-law, a most demeaning spectacle in rural Zimbabwe. In

⁴ Makamure v Mutongwizo (supra); Devillers v Louw 1931 AD 241.

⁵ Devillers v Louw (supra).

my view, the evidence before me can only lead to the conclusion that free franchise was affected in the constituency and therefore, corrupt practices were committed in relation to the election of the respondent.

One issue that I have had to address is the fact that some of the alleged corrupt practices occurred outside the constituency. The assault of Mbulawa Mapani and members of his family occurred at Tenda School, a location allegedly in Gokwe Central Constituency. In my view, the electoral law is clear that the corrupt practice must have been in relation to an election if it is to void that election. There is nothing in the law to say that the act constituting the corrupt practice must have occurred within the geographical boundaries of the constituency. Thus, as the corrupt practices related to people who would have voted at the election of the respondent and the petitioner, I find that these corrupt practices related to that election.

I have also considered whether the election of the respondent can be saved under s 125 of the Act. I think not. This is so because there is no evidence before me from the respondent that he and his election agent did not sanction or connive with the perpetrators of the corrupt practices. I do not even have evidence of who his election agent was. I further do not have evidence of the steps that the respondent took to prevent the occurrence of corrupt practices at the election.

I have elsewhere in this judgment given my reasons for rejecting the evidence of the respondent. I have however, taken in his favour that he is known in the constituency as a non-violent person. I have further taken into account that there is no evidence before me that the respondent himself knew of all the violence that was being perpetrated for his election. I however find that the perpetrators were his agents for the purposes of the Electoral law. In this regard, I have been guided by the remarks made in the Blackburn Election Petition⁶ to the effect that no man is to wear a prize on whose behalf the contest has not been fairly won if the unfair play can be traced back to people whom he has set in motion to canvass votes for him.

Despite the fact that the respondent is known to shun violence, I

⁶ 1869 20 LT 823.

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cannot save his election under s 125 of the Act as he has not shown to my satisfaction that he took any precautions to prevent the occurrence of violence in his constituency. Further, I cannot hold that the corrupt practices revealed to me in evidence were trivial, unimportant and of a limited character.

In the result I make the following order:

1. The election of the respondent as the Member of Parliament for the Gokwe North Constituency is hereby set aside.
2. The registrar of this court shall certify to the Minister in terms of s 125 of the Act of the finding of this court that corrupt practices were committed in relation to the election of the respondent by and with the knowledge and consent or approval of his agents.
3. The respondent shall bear the petitioners costs.

Honey & Blanckenberg, petitioners legal practitioners;
Ziumbe & Mtambanegwe, respondent's legal practitioners.