

IN THE HIGH COURT FOR ZAMBIA

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

(Consolidated Matter)



2013/HP/1546

2013/HP/1620

2013/HP/1661

2014/HP/0071

2014/HP/1057

B E T W E E N:

RAKESHKUMAR NAYEE

ENALA TEMBO

LACKSON KABIMBI (*Suing as father and
next friend of Silvia Kabimbi*)

MARY PHIRI (ADMINISTRATOR OF THE ESTATE
OF THE LATE FRED MUKUZDIWARA)

GRANDSON JERE

1ST PLAINTIFF

2ND PLAINTIFF

3RD PLAINTIFF

4TH PLAINTIFF

5TH PLAINTIFF

AND

THE ADMINISTRATOR OF THE ESTATE
OF THE LATE SAMUEL SIKAZWE

SELIFAS MBEWE

PROFESSIONAL INSURANCE CORPORATION
ZAMBIA LIMITED

1ST DEFENDANT

2ND DEFENDANT

3RD DEFENDANT

**Before Honorable Mrs. Justice M. Mapani-Kawimbe in Chambers on 26th
September, 2016**

For the Plaintiffs : *No Appearance*

For the 1st Defendant : *No Appearance*

For the 2nd Defendant : *Dr. O. M Banda, Messrs O.M. Banda & Company*

For the 3rd Defendant : *No Appearance*

RULING

This ruling arises out of the question raised by the 2nd Defendant, on whether the writs of summons filed by the plaintiffs which are not compliant with Order 7 Rule 1 (a) and (b) of the High Court Rules, as amended by the High Court (Amendment) Rules Statutory Instrument No. 29 of 2012 can be used as a basis for defeating this action.

From the writs of summon, it is clear that the main cause of action is largely premised on claims for damages to property and life. In my considered view, dismissing these claims on account of technicalities would be tantamount to circumventing the course of justice.

It is also my considered view that the defect on the writs of summon complained of is curable. That being said, while I agree with the 2nd Defendant's objection that the Plaintiffs did not comply with the Orders cited by the 2nd Defendant; these defects are curable and should be attended to by the Plaintiffs.

I therefore order the Plaintiffs to remedy the defects on the writs of summon within the next twenty-one days. Failure to do so will invoke my jurisdiction to strike out the matter forthwith. In the event that the Plaintiffs comply with my order, I will set this matter for another status conference on 23rd November, 2016 at which trial dates will be set.

In the meantime the parties should avail the Court, their bundles of pleadings and documents.

I make no order as to costs.

Dated the 26th day of September, 2016

.....*M. Mapani*.....
Hon. Mrs. Justice M. Mapani-Kawimbe
HIGH COURT JUDGE