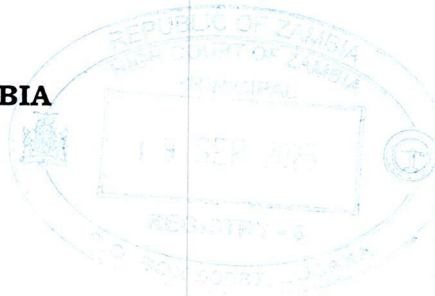


**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)
BETWEEN**



2025/HP/1294

JOSEPH BWEUPE

PLAINTIFF

AND

BRENDA BWEUPE

1ST DEFENDANT

CECILIA BWEUPE

2ND DEFENDANT

Before the Honourable Lady Justice S. Chocho, in Chambers on the 19th of September, 2025.

R U L I N G

Cases referred to:

- 1. Leopald Walford (Z) Limited v. Unifreight SCZ Judgment 23 of 1985.***

Legislation referred to:

- 1. Order 10 Rule 16 of the High Court Rules, Chapter 27 of the laws of Zambia.***

1. INTRODUCTION

1.1. This Court has moved *suo moto* to rule on whether the Plaintiff's process is properly before this Court and whether this Court has the jurisdiction to entertain the Plaintiff's action.

1.2. The Plaintiff commenced Court process against the Defendants on September 15th, 2025. The Writ of Summons is endorsed with addresses as the United State of America and the Defendants given 42 days within which to enter Appearance.

- 1.3. Furthermore, the Plaintiff filed a Certificate of Urgency on an application for security for costs on September 15th, 2025.
- 1.4. The Plaintiff commenced process without obtaining leave to issue demand letter and serve Court process outside jurisdiction.

2. COURT'S DECISION

- 2.1. I have addressed my mind to the authorities on issuance and service of Court process outside jurisdiction and hereunder is my Ruling.
- 2.2. **Order 10 Rule 16 of the High Court Rules** requires that a party intending to serve Court process outside jurisdiction must obtain leave of Court before doing so. **Order 10 Rule 16** provides as follows:

“An application for leave to issue for service out of the jurisdiction a writ of summons, originating summons, or originating notice of motion or a concurrent writ of summons, originating summons or originating notice of motion may be made ex parte to the Court or a Judge on deposit of the writ, summons or notice with the Registrar together with an affidavit in support of such application. The affidavit shall state-

(a) The grounds upon which the application is made and the facts which bring the plaintiff's case within the class in respect of which service out of the jurisdiction may be allowed;

(b) That the deponent is advised and believes that the plaintiff has a good cause of action or right to relief;

(c) In what place or country, the defendant resides or probably may be found;

(d) Whether the defendant is a citizen of Zambia or not”.

2.3. The Supreme Court in the case of **Leopald Walford (Z) Limited v. Unifreight SCZ Judgment 23 of 1985** guided on the procedure to be followed in issuing and serving Court process outside jurisdiction. The Court guided as follows:

“The rule as set out above is quite explicit and the procedure to be followed is that, before a writ can be issued, leave of the court must be obtained. The procedural steps to be taken, therefore, are that a writ must be prepared but that before it can be issued, an application must be made, with the writ attached thereto, for leave to issue the writ for service out of the court's jurisdiction; but, even then, only after the court's leave has been obtained shall the writ be issued”.

2.4. In light of the above authorities and considering that the Plaintiff did not obtain leave of Court before issuing Court process for service outside jurisdiction, I find that the originating process is irregular and improperly before this Court. Rules of Court do not exist in a vacuum but are intended to ensure the orderly conduct of cases. I **HEREBY** set aside the Court process and dismiss the Plaintiff's action.

Delivered at Lusaka on the 19th day of September, 2025.



S. CHOCHO

HIGH COURT JUDGE

R3

