

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Civil Case 604 of 2006

HASSAN ASARIA.....PLAINTIFF

VERSUS

SARBJIT SINGH RAI.....1ST DEFENDANT

REGISTRAR OF TITLES.....2ND DEFENDANT

MICHAEL OMBALO UNGONDA.....3RD DEFENDANT

R U L I N G

Before me is a Chamber Summons brought by the plaintiff under Order 5 Rule 1 and 7 of the Civil Procedure Rules for orders that the validity of summons in respect of the 3rd defendant herein be extended and that service of summons on the 3rd defendant be effected by advertisement in one edition of the Daily Newspaper. In support of the application Hassanari Asaria has sworn an affidavit giving grounds. He avers that efforts to effect service on the 3rd defendant have been unsuccessful.

Miss Ambani appearing for the plaintiff submitted that the plaintiff filed this suit on 9th June 2006 and has been able to service the 1st and 2nd defendants but efforts to effect service on the 3rd defendant has been unsuccessful. The plaintiff engaged the services of one David Ochieng, a process server employed by Doel Investments but his efforts to trace the 3rd defendant were fruitless.

Having considered the application in light of the affidavit evidence on record and the submissions by counsel, I am satisfied that the plaintiff has demonstrated that it is not possible to effect personal service on the 3rd defendant and therefore substituted service is necessary.

Accordingly I allow the plaintiff's application in terms of prayers 1 and 2 of the Chamber Summons dated 5th May 2008. The first service to be repeated after 14 days.

Dated and delivered at Nairobi this 17th day of June 2008.

J. L. A. OSIEMO

JUDGE