



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI COMMERCIAL COURTS)**  
**Civil Suit 261 of 2004**

**FULCHAND M SHAH.....PLAINTIFF**

**VERSUS**

**PANACHAND J. SHAH & OTHERS.....DEFENDANTS**

**RULING**

The court on 28<sup>th</sup> April 2006 delivered a ruling in respect of a chamber summons dated 16<sup>th</sup> March 2006 seeking leave to serve 4<sup>th</sup> defendant with summons and plaint out of this jurisdiction. Those defendants are said to reside in the United Kingdom.

The court in that ruling did not give direction as required by Order VI Rule 25 of the Civil Procedure Rules. That rule provides:

**“Where leave to serve a summons or notice of summons out of Kenya has been granted under rule 21, and the defendant is a commonwealth citizen as defined in subsection (1) (2) of Section 95 of the Constitution or resides in any of the countries for the time being mentioned in subsection (3) of that section, the summons shall be served in such manner as the court may direct.”**

The plaintiff has come to court seeking those directions.

Since the 4<sup>th</sup> and the 6<sup>th</sup> defendants are resident in the United Kingdom subsection 3 of section 95 of the Constitution is satisfied and the court can therefore give directions.

The court grants the following directions.

- (1) That service of the summons and plaint be effected upon the 4<sup>th</sup> and 6<sup>th</sup> defendants, hereof personally.**
- (2) That the Deputy Registrar do comply with Order 5 Rule 27 of the Civil Procedure Rules.**
- (3) That the plaintiff is granted liberty to apply for further directions.**
- (4) There shall be no orders as to costs.**

MARY KASANGO

**JUDGE**

Dated and delivered this 16<sup>th</sup> June 2006.

MARY KASANGO

**JUDGE**