



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Civil Case 52 of 2001**

**DARSHAN SHAH .....PLAINTIFF**

**VERSUS**

**ROOPAM (K) LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**HEMAL HARIA ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

**ON A PRELIMINARY OBJECTION**

This is an application by the Attorney General that this suit was instituted contrary to section 13(a) of the Government Proceedings Act. Namely no notice was issued 30 days before the suit was filed under section 13 A. The application is being opposed to.

It is noted herein that the suit before me was filed against a defendant. He in turn took out two 3<sup>rd</sup> party proceedings whereby he joined the attorney General as the 1<sup>st</sup> defendant 3<sup>rd</sup> party. This means that the application being ex parte the Attorney General would come aware of the case at the time of service.

I hereby find that the suit should begin to accrue at the stage in which leave was granted. If 3<sup>rd</sup> party proceedings were not filed nor served after the court giving leave and within the given time there is therefore cause for a preliminary objection

At this state the preliminary objection does not arise and must await the trial.

I hereby over rule this preliminary objection with costs to the defendants and the plaintiff.

Dated this 9<sup>th</sup> day of December 2004 at Nairobi.

M.A. ANG'AWA

JUDGE

V. Gosmani for plaintiff

S.B.N. Atambo for the Attorney General