



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL CASE NO. 1352 OF 1995**

**SABINA OYATSI.....PLAINTIFF**

**versus**

**BATA SHOE COMPANY (KENYA) LIMITED.....DEFENDANT**

**R U L I N G**

This an application under Order 48 Rule 5(sub-rule 2) seeking to set aside the order of the Deputy Registrar made on 12th May 1997 wherein she dismissed the appellant's application for provision of particulars of pleadings. The learned counsel for the appellant has raised 4 grounds of appeal which are of relevance. The respondent's case is based on libel which she has given particulars in her plaint. Following the said plaint, the appellant requested to be provided with particulars which the respondent refused to provide. It is true that it is only the respondent who knows to whom she is referring to in the pleadings as potential employers. These are third parties and their disclosure is essential for the appellant to be able to respond adequately to the said pleadings. It is a requirement that a party should have notice of his opponents claim so that no prejudice shall result during the trial. In the case of (Bradbury -v- Cooper) 1883 12 C.B 94 which has been cited by the learned counsel for the appellant it was held that particulars of the party to whom the slander was uttered must be supplied. I agree with the holding and find that the ruling of the Deputy Registrar was wrong in law.

Accordingly, I allow the appeal and order that the respondent shall supply the particulars requested for within 21 days of service of this order. In default the offending paragraphs of the plaint shall be struck out. The costs of this application shall be in the cause.

Dated and delivered at Nairobi this 6th day of May, 1998.

**A. MBOGHOLI MSAGHA**

**JUDGE**