

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL DIVISION
CIVIL CASE NO. E278 OF 2025

THEODROS

DAGNE.....PLAINTIFF

VERSUS

**THE MINISTRY OF PRESIDENTIAL AFFAIRS
IN THE REPUBLIC OF SOUTH SUDAN.....
DEFENDANT**

RULING

1. The Applicant, Theodros Dagne **sought against the Defendant/Respondent leave to serve summons to enter appearance** and pleadingS through the Embassy of the Republic of South Sudan in Nairobi Kenya. It is an exparte application. The Defendant is a foreign entity.
2. The Plaintiff was at the material times under a contract with the United Nations Mission in South Sudan (UNMISS) and seconded to serve as a Senior Advisor to the President of the Republic of South Sudan; and was engaged to advice the said president on matters related to democratic Governance, anti- Corruption initiatives and economic development.
3. The Plaintiff who resides in the Republic of Kenya entered into a Consultancy Agreements with the Defendant in 2014 and 2022 for a consideration of US \$ 1,750,000.000 which is the subject of the suit filed herein, for which he seeks from the Defendant.

4. **Order 5 Rule 21 of the Civil Procedure Rules** provides for service of summons and pleadings out of Kenya. The Applicant/Plaintiff must obtain leave of court to effect such service out of Kenyan Jurisdiction.

For Diplomatic channels, documents may be served through the foreign Affairs channels for transmission.

5. **Order 5 Rule 25 CPR** provides that:-

“Every application for leave to serve such summons or notice on a defendant out of Kenya shall be supported by an affidavit or other evidence, stating that in the belief of the deponent, the Plaintiff has a good cause of action, and showing in what place or country may be found and whether such defendant is a commonwealth citizen or a British Protected or not, and the grounds unless it is made sufficiently to appear to the court that the case is a proper one for service out of the Kenya under this Order”

6. As stated and held in the case of **Zenele Investment Holding Limited V. Alexander Forbes Emanging Markets (PTY) [2017] eKLR**, the procedure set at **Order 5 Civil Procedure Rules** is the proper procedure, and an applicant must comply with the said procedure and particularly **Rule 29** of the order.
7. Once leave is granted to the Applicant, the High Court thus assumes jurisdiction over Defendants outside Kenya upon service of the summons as held in the case of **Raytheon**

Aircraft Credit Corporation & Another v. Air Al-Faraj Limited [2005] eKLR.

8. **In the circumstances I am satisfied that the ex-parte application made by the Applicant dated 19/12/2025 is merited**

It is allowed as prayed.

Delivered Dated and Signed at Nairobi this 16th day of February, 2026.

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JANET MULWA.

JUDGE