

**IN THE HIGH COURT FOR ZAMBIA  
AT THE COMMERCIAL REGISTRY  
HOLDEN AT LUSAKA**

**2014/HPC/0540**

(Civil Jurisdiction)

**BETWEEN:**

**CAVMONT BANK LIMITED**

**PLAINTIFF**

**AND**

**HILDAH PETRINA SHIKONGO  
DEFENDANT**

**BEFORE THE HON. MR JUSTICE JUSTIN CHASHI IN  
CHAMBERS ON THE 19<sup>TH</sup> DAY OF MARCH, 2015**

*For the Plaintiff:*

*KPK Musabandesu, Messrs M & M Advocates*

*For the Defendant:*

*N/A*

---

**R U L I N G**

---

**Cases referred to:**

1. Leopald Walford (Zambia) Limited v Unifreight (1985) ZR 203

**Legislation referred to**

2. The High Court Act, Chapter 27 of The Laws of Zambia.

The **Plaintiff Cavmont Bank Limited** commenced proceedings herein by way of Writ of Summons filed into Court on the 11<sup>th</sup> day

of December 2014 against the **Defendant, Hilda Petina Shikongo**.

On the 23<sup>rd</sup> day of January 2015, the Plaintiffs were granted leave to serve the Writ of Summons out of jurisdiction.

**Order 10 Rule 16 of The High Court Rules**<sup>2</sup> states as follows:

**“An application for leave to issue for service out of the jurisdiction a Writ of Summons, Originating Notice of Motion may be made ex parte to the Court or a Judge on a deposit of the Writ of Summons or Notice with the Registrar together with an affidavit in support of such application”.**

It is not in doubt that the Defendant herein is ordinarily resident in Windhoek, Namibia.

On the strength of **Order 10 Rule 16 of The High Court Rules**<sup>2</sup> and also the case of **Leopald Walford (Zambia) Limited v Unifreight**<sup>1</sup>, the Plaintiff needed ex parte leave to issue process out of jurisdiction and once that was granted, they could then file the Originating process and thereafter seek leave to serve process out of jurisdiction.

There is no evidence on record that ex parte leave to issue process was ever obtained by the Plaintiff before filing of the Originating process.

These proceedings are therefore a nullity and are accordingly dismissed.

**Leave to appeal is hereby granted.**

**Dated at Lusaka this 19<sup>th</sup> day of March 2015.**

-----  
Justin Chashi  
**HIGH COURT JUDGE**