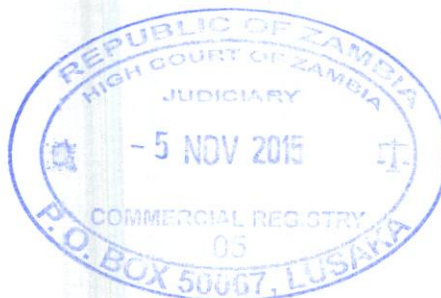


IN THE HIGH COURT FOR ZAMBIA  
AT THE COMMERCIAL REGISTRY  
HOLDEN AT LUSAKA  
(Civil Jurisdiction)

2014/HPC/0414



**BETWEEN:**

JOHN JAMES MEYER

1<sup>ST</sup> PLAINTIFF

LUCY GRACE MEYER

2<sup>ND</sup> PLAINTIFF

AND

JOHANNES DANIEL YOUNG

DEFENDANT

**BEFORE HON. MADAM JUSTICE PRISCA MATIMBA NYAMBE, SC  
AT LUSAKA IN CHAMBERS**

For the Plaintiffs: Mr. Chali Tresford  
*Assisted by Mr. Wiza Chirwa  
H. H. Ndau & Company*

For the Defendant: Ms Amanda Theotis  
*Theotis Mataka & Sampa Legal Practitioners*

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**RULING**

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**List of authorities referred to:**

1. Order 14A of the Rules of the Supreme Court of England 1999 Edition

This is the Defendant's application brought pursuant to **Order 14A of the Rules of the Supreme Court of England 1999 Edition** to Raise a Preliminary Issue for disposal of a case on a point of law.

When I perused the Case file, I noted that the issues involved family matters. I therefore requested the parties to submit to mediation with the possibility that the matter could be settled by mediation.

Regrettably on the return date the Mediation Report indicated that: "*mediated but not settled*".

I therefore proceeded to hear the application.

The Preliminary Issue raised herein that is the case is Statute barred and therefore there is no Cause of Action. The matter should be dismissed as it is improperly before Court.

Counsel for the Plaintiff argued that the matter is not Statute barred, the matter should proceed to full trial for final determination on the merits of the issues in contention.

After listening to submissions made by both Counsel; Upon perusal of the affidavits, the skeleton arguments and lists of authorities filed herein, taking into consideration the fact that the Defendant's ownership of the land in question is being challenged under **Cause No. 2014/HP/1859**, I find that there are questions raised herein which need to be determined by the Court on the merits at full trial. These questions do raise trial issues.



In view of the above, the application to raise a Preliminary Issue on a point of law as submitted is hereby dismissed with costs to the Plaintiffs.

The matter will proceed to full trial, Scheduling shall be held on 23<sup>rd</sup> November, 2015 at 09:30 hours.

Dated this.....5<sup>th</sup>.....day of .....November.....2015



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**Prisca M. Nyambe, SC**  
**JUDGE**