

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL SUIT NO.1296/87

JAMES FREDRIC POOL NSUBUGA }**PLAINTIFF**
C/O KITIO & CO. ADVOCATES }

VERSUS

ATTORNEY GENERAL.....DEFENDANT

BEFORE: The Hon. Mr. Justice G.M Okello

RULING

When this case was called for hearing before me, Mrs. Regina Mutyaba State Counsel raised a preliminary objection contending that the Plaintiff's Complaint was bad in law in that it did not comply with the Provision of O.7 r 1(f) of the Civil Procedure Rules and prayed that it (Complaint) be struck out. The rule referred to above requires that a Complaint must contain facts showing that the court has jurisdiction. Mr. Kityo for the plaintiff denied that the Complaint, did not comply with order 7 r I (f) of CPR. Hence this ruling.

Mrs. Mutyaba argued that O.7 r 1(f) of the CPR imposes on Plaintiff obligation of Pleading "facts showing that the court has jurisdiction" in the matter. She relied on **Assan and & Sons Uganda Ltd .v. E.A Records LTD (1959) EA. 360** where it was held that o. 7 r. 1(f) of the CPR places upon the Plaintiff the obligation of pleading the facts showing that the Court has jurisdiction".

Counsel argued that the importance of pleading those facts lie in the fact that if a court has no jurisdiction judgment which it gives is a nullity. She pointed out that in the instant case, the Complaint does not contain such facts showing that this court has jurisdiction in the matter, She stressed that defect is incurable and she invited me to strike out the complaint.

On his part, Mr. Kityo replied that the plaint complied fully with the provision of O.7 r 1(f) of the CPR in that it contains facts showing the Court has jurisdiction in the matter. He pointed out that paragraph I of the Plaint shows that the Plaintiff works for gain at Ndeba Trading Centre. Further that paragraphs 4 and 5 show that the cause of action arose at Lubiri Army Barracks and at Katwe Police Post when the wrong was committed on the plaintiff by soldiers of Lubiri Amy Barracks. He further pointed out that the Special Damages claimed fall within the Monetary Jurisdiction of this court He argued that section 3(1) of the judicature Act 1967 gives this court full jurisdiction in Civil and Criminal matter over all persons and over all causes and all matters in Uganda. Counsel submitted that the facts pleaded in the plaint before me show that this court has jurisdiction over this case. He argued that it is not a matter of stating in the Plaint, that court has jurisdiction but that the important thing is to plead facts showing that the court has jurisdiction as it was done in this cases He relied on **Alexander G. Mutongole .v. Nyanza Textile Industries Ltd (1971) EA 445 .**

In reply Mrs. Mutyaba submitted that in as much as the Plaint does not clearly state that Ndeba Trading Centre where the Plaintiff was stated to be carrying on business for gain, Lubiri Amy Barracks and Katwe Police Post where the cause of action was stated to have arisen are within the jurisdiction of this court, the Plaint is incurably defective for failure to contain facts showing that this court has jurisdiction.

I have carefully considered the above arguments and the authorities cited. O.7 r1 (f) of the CPR clearly imposes on the Plaintiff a duty to state in his plaint facts showing that the court has jurisdiction in the matter. This was the view held in **Assan and & Sons Uganda Ltd .v. E.A Records LTD** above Where it was added that mere assertion by the Plaintiff in the plaint that ‘the court jurisdiction’ was not enough. The important thing is that facts showing that the court has jurisdiction must be stated in the Plaint. This view was followed in **Bisuti .v. Busoga District Council HCCS No. 83/69: and Alexander G. Mutongole .v. Nyanza Textile Industries Ltd** above.

The point for determination in this preliminary objection is whether the Plaint before me contains facts showing that this court has jurisdiction in the matter.

This court has full jurisdiction over all persons and over all cause within Uganda. See section 3(1) of the Judicature Act 1967.

In the instant case, paragraph I of the Complaint shows that the plaintiff works for gain at Ndeba Trading Centre. Paragraphs 4 & 5 of the same Complaint show that the causes of action arose at Ndeba Trading Centre, Lubiri Army Barracks and Katwe Police Post. Mrs. Mutyaba the State Counsel argued that so long as the Plaintiff did not aver in the Complaint that those named places are within the jurisdiction of this court the Complaint is incurably defective.

With all due respect to the learned State Counsel, I think the above is not a serious argument because this court should take Judicial Notice of the boundaries of this country since those boundaries are defined in the constitution of this country. Ignorance of the location of such places within this country is no excuse. Sure, it may be desirable to state that a named place is within the jurisdiction of the court but it is not a necessity. In this case if one consults the map of Kampala District one should clearly satisfy himself that the places like Ndeba Trading Centre, Lubiri and Katwe are within Kampala in Uganda and therefore within the jurisdiction of this court. On these grounds I am satisfied that the Complaint before me duly complied with the provision of O.7 r (f) of the CPR. Mere failure of the Plaintiff to aver in the Complaint that "this court has jurisdiction", does not render the Complaint defective when the facts showing that the court has jurisdiction are clearly stated in there. The preliminary objection would therefore be and is hereby over-ruled.

GM, Okello

JUDGE

15.10.90