

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
CIVIL SUIT NO. 005 OF 2020

ZEPHANIA NAKIMERA ::: PLAINTIFF

5

VERSUS

MPANGA TEA GROWERS FACTORY CO. LTD ::::::::::::::: DEFENDANT

BEFORE HON. JUSTICE VINCENT WAGONA

RULING

10 The plaintiff filed this suit on 14th January 2020 against the defendant and the summons to file a defense were issued by court on 19th March 2020. Since then no taken was done by the plaintiff on the file. There is no proof on record of service of the summons upon the defendant.

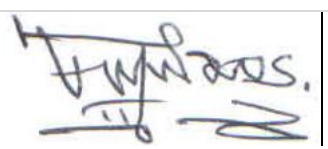
Decision:

15 Order 5 rule 1 provides thus:

(1) When a suit has been duly instituted a summons may be issued to the defendant—

(a) ordering him or her to file a defence within a time to be specified in the summons; or

20 *(b) ordering him or her to appear and answer the claim on a day to be specified in the summons.*



(2) *Service of summons issued under subrule (1) of this rule shall be effected within twenty-one days from the date of issue; except that the time may be extended on application to the court, made within fifteen days after the expiration of the twenty-one days, showing sufficient reasons for the extension.*

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(3) *Where summons have been issued under this rule, and—*

(a) *service has not been effected within twenty-one days from the date of issue; and*

(b) *there is no application for an extension of time under subrule (2) of this rule;*
or

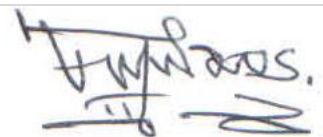
10 (c) *the application for extension of time has been dismissed, the suit shall be dismissed without notice.*

It is a mandatory requirement that the summons issued by court must be served within 21 days from the date of issue and return of service must be filed in court.

15 Where service has not been done within 21 days, then the plaintiff must within 15 days seek an extension of the summons. If the same are not served within 21 days and there is no application for extension of time within which to serve, then the suit stands dismissed without notice.

20 In the present suit the summons were issued on 19th March 2020 and thus were to be served within 21 days which lapsed on 10th April 2020.

There is no proof of service of the summons upon the defendant which must be by an affidavit of service and no application was made by the plaintiff for extension of time within which to serve.

A handwritten signature in black ink, appearing to read 'H. W. S.', is written over a horizontal line. Below the signature, there are some illegible scribbles and a small mark.

In the premises, I dismiss Civil Suit No. 005 of 2020 under **Order 5 rule 3** of the Civil Procedure Rules for none service of the court summons with no orders as to costs.

I so order.

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Vincent Wagana

High Court Judge

FORT-PORTAL

27.02.2023

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