

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
CIVIL SUIT NO. 0679 OF 2019**

1. **SPORTS VIEW HOTEL LTD**
2. **KASOZI AUGUSTINE:::PLAINTIFFS**

VERSUS

1. **ATTORNEY GENERAL**
2. **MANDELA NATIONAL STADIUM LTD:::::DEFENDANTS**

BEFORE: HON. MR. JUSTICE JOHN EUDES KEITIRIMA

RULING

Counsel for the defendant applied to court to declare that the suit abated as counsel for the plaintiff never took out summons for directions within the required time frame.

Counsel for the plaintiff applied to file a reply to the amended written statement of defence of the 1st and 2nd defendants which was filed in court on 25th March 2021.

Counsel submitted that he had a nasty accident which lasted


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for more than a year and was not working. He submitted that Junior Counsel who was working with him resigned soon thereafter without updating him on what had transpired. Counsel for the plaintiff contended that the last reply has never been filed for the suit to abate. Counsel for the plaintiff prayed that on the said account leave be granted so that court grants the plaintiff time to be able to file a reply. Counsel also contended that at the time this case was filed, the rules on abatement of a suit for failure to take out summons for directions were not in place and hence the same cannot be invoked.

Counsel for the defendants submitted that a reply had already been filed on 21st April 2022 and therefore a prayer to that effect was moot. That the application counsel for the plaintiff referred to had since been overtaken by events as


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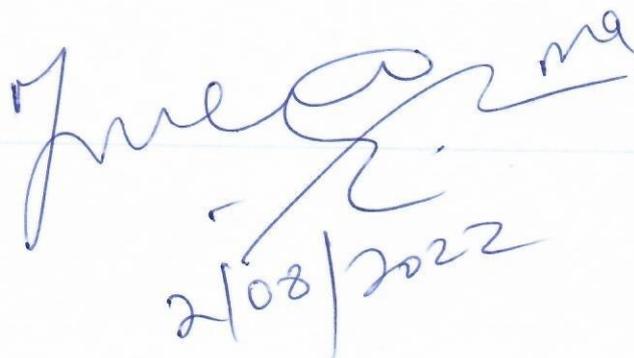
the defendant was given leave to file a written statement of defence.

It is true that there is already a reply to the amended written statement of defence which was filed way back on 29th April 2021.

Order XIA Rule 1 (2) of the CPR (as amended) provides that;

“Where a suit has been instituted by way of a plaint, the plaintiff shall take out summons for directions within 28 days from the date of the last reply or rejoinder referred to in rule 18(5) of order Viii of these rules”.

Order XIA Rule 1(6) of the CPR provides that;

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“If the plaintiff does not take out summons for directions in accordance with Sub rules (2) or (6), the suit shall abate”.

The said provisions are couched in mandatory terms. Since the last pleading was filed way back on 29th April 2021, summons for directions should have been taken out 28 days thereafter. This was never done.

Counsel for the plaintiff had submitted that the said rules did not apply to this case as the rules were enacted after the filing of this case and hence could not apply retrospectively.

The plaint in this case was filed in this court on the 12th August 2019.

The rules came into force on the 31st May 2019 vide Statutory Instrument No. 33 of 2019. The suit was


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therefore filed after the said rules had been enacted and are therefore applicable.

The suit therefore abates for failure to the take out summons for directions under **Order XIA Rule 1(2) and (6) of the CPR.**



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HON. JOHN EUDES KEITIRIMA
JUDGE
02/08/2022