

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT KAMPALA  
CIVIL SUIT NO. 2044 OF 1997**

**HAJI SUBAIR MAGOMU:..... PLAINTIFF/COUNTER DEFENDANT**

**VERSUS**

**UGANDA POSTS AND TELECOMMUNICATIONS  
CORPORATION:..... DEFENDANT/COUNTER CLAIMANT**

**BEFORE: THE HONOURABLE MR. AG. JUSTICE PAUL K. M(JGAMBA**

**RULING:**

On 1<sup>st</sup> November 2000 when counsel for the plaintiff sought to call evidence, Mr. Sendege counsel for the defendant raised a preliminary objection. Mr. Sendege argued that the amended pleadings were not properly before court because it offended provisions of Order 6 rule 1 of the Civil Procedure Rules. Counsel observed that the amended pleadings are not accompanied by a summary of evidence, a list of witnesses, a list of documents and a list of authorities to be relied on as is mandatory. Counsel for the plaintiff on the other hand stated that the amended pleadings were properly before court. He argued that the original pleadings had been filed on 5<sup>th</sup> December 1997 before the amendment to Order 6 rule 1. The amendment was published on 24<sup>th</sup> July 1998 and, counsel argued, that being the case the amendment to the pleadings which was filed on 22<sup>nd</sup> June 2000 was not affected by the change in O.6 r 1.

Having heard from both counsel, I note that resulting from the amendment both the original pleadings and the amendment bear the same registry number. However, by amending the pleadings introduced pleadings that are separate, distinct from the original ones. Distinct because the amended pleadings attracted separate fees and sought fresh pleadings of the defendant. While no one will hazard that the pleadings of 1997 could be affected by the amendment to O.6 rule 1, it is obvious the pleadings after 24<sup>th</sup> July 1998 are subject to the amended. It is to the credit of

the defendant that the amended defence complies with the new procedure. It behoved the plaintiff to accompany the amended plaint with the required appendages.

I agree with counsel for the defendant that omission to comply with the provisions of 0.6 r 1 is fatal to the pleadings and I must strike out the plaint with costs.

**Paul K. Mugamba**

**Ag. Judge**

**13th October 2000**

Mr. Adolf Mwesige for the plaintiff

Mr. Sempa for the defendant

Mr. Mugerwa court clerk.

Court:

Ruling read in court.

**Paul K. Mugamba**

**Ag. Judge.**