

IN THE HIGH COURT FOR ZAMBIA

2017/HP/0411

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



BETWEEN: -

SAFE WORLD TRUST SCHOOL

APPLICANT

AND

YOUNGSON NYIRENDA

1ST RESPONDENT

STAFFORD CHENDENDE

2ND RESPONDENT

ZITA KAPINDA

3RD RESPONDENT

SYLVIA KAPOSA

4TH RESPONDENT

CHRISTABEL MALAMBO

5TH RESPONDENT

***BEFORE THE HONOURABLE MADAM JUSTICE P. K. YANGAILO
ON 30TH JANUARY, 2018.***

For the Applicant: Mr. M. Haimbe - Messrs. Sinkamba Legal Practitioners

For the Respondents: Mr. H. Mulenga - Messrs. Philsong & Partners

RULING

CASES REFERRED TO:

1. *Musa Ahmed Adam Yousuf vs. Mahtani Group of Companies, Finsbury Investments Limited, Chimanga Changa Limited and Rajan Lekrhaj Mahtani (2011) Volume 1 ZR 278.*

LEGISLATION AND OTHER WORKS REFERRED TO:

1. *The Registration of Business Names Act, Act No. 16 of 2011 of the Laws of Zambia;*
2. *The Supreme Court Practice 1999 Edition (The White Book); and*
3. *High Court Act, Chapter 27 of the Laws of Zambia.*

The genesis of this case is that on 31st August, 2017, this Court ordered the Applicant to amend the originating process to cure the irregularities, which the Court found to be curable. The Applicant was given a period of fourteen (14) days within which to cure the irregularities. The Applicant proceeded to cause amendments to the originating process but neglected or failed to amend the name of Applicant herein, which is not a limited liability company.

On 25th September, 2017, the Respondents filed herein a Notice of Intention to raise preliminary issues. The issues that the Respondent intended to raise are whether or not the Applicant has fully complied with the Court Order to amend the originating process dated 31st August, 2017, namely among others, whether the Applicant has the legal capacity to sue in the proposed fashion; and if the answer is not in the affirmative, the entire action of the Applicant be dismissed with costs. The Respondent filed herein an Affidavit in Support of the Notice of intention to raise preliminary issues which was deposed by Youngson Nyirenda, the 1st Respondent. He averred, *inter alia*, that: -

1. *That on 31st August, 2017, this Honourable Court ordered the Applicant to amend the Originating Process within 14 days;*

