

ORIGINAL

IN THE HIGH COURT OF JUSTICE OF KWARA STATE
IN THE ILORIN JUDICIAL DIVISION
HOLDEN AT ILORIN

SUIT NO: KWS/518/2025

BETWEEN

1. ZEINAB ZULU GAMBARI
2. HASSIAT WURAOLA GAMBARI
3. MARIAM SEGILOLA GAMBARI
4. HAUWA ADEGBOYEGA GAMBARI
5. BILKISU TINUOLA GAMBARI
6. ALIYU OLADIPOPU GAMBARI
7. RAKIYA AJIBOLA GAMBARIAPPLICANTS

AND

1. AHMED BOLAKALE GAMBARI
2. UNKNOWN PERSONSRESPONDENTS

MOTION EX PARTE

BROUGHT PURSUANT TO ORDER 7(1)(2) & (5) OF THE KWARA STATE HIGH COURT (CIVIL PROCEDURE) RULE 2022 AND UNDER THE INHERENT JURISDICTION OF THIS HONORABLE COURT

TAKE NOTICE that this Honorable court will be moved on the day of, 2025 at the hour of 9 0'clock in the forenoon or so soon thereafter as the Counsel to the Petitioner/Applicant will be heard praying this Honorable court for the following reliefs:

1. AN ORDER of this Honorable court allowing the Claimants/Applicants to serve the originating process and all other subsequent processes of this court files in this suit to be served on the 1st Defendant/Respondent via substituted means, viz-a-viz sending same to his whatsapp number: 08039230013 and to serve the 2nd Defendant/Respondent by pasting same at their last known address situate and being at Matchco (Ile Isana), Emir of Ilorin House, Muritala Mohammed Way, Ilorin, Kwara State.
2. AN ORDER of this Honorable court that the service of the originating process aforesaid be deemed to be personal service, properly and duly served on the Respondent if served through the 1st Defendant's whatsapp number and pasted at the last known address of the 2nd Defendant.
3. AND FOR SUCH FURTHER ORDER(S) as this Honorable court may deem fit to make in the circumstance of this case.

GROUNDS FOR APPLICATION

1. The rules of this Honorable court demand that Court processes be served personally on the Respondent.
2. Efforts have been made to effect personal service on the Respondents with the Claimant's originating process but all to no avail.
3. The rule of this honorable court provides for substituted service where personal service cannot be conveniently effected.
4. The leave of this Honorable court is required to serve on the Respondents the process of this court by substituted means.
5. It is in the interest of justice to grant this application.

DATED THIS *10th* DAY OF *NOV* 2025

Bilkisu Tinuola Gambari
BILKISU TINUOLA GAMBARI
(FOR ALL THE APPLICANTS)
NO. 5, SANI LAWAL CLOSE,
OFF OLA HERALD ROAD,
GRA, ILORIN, KWARA STATE.

Motion - #500 n
Call - #250 n
Process - #250 n

#1000 n

10/4/25

SSNOU - 201481 - USATE - 2228/1 - 3

10/4/25

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- 7. RAKIYA AJIBOLA GAMBARIAPPLICANTS**

AND

- 1. AHMED BOLAKALE GAMBARI**
- 2. UNKNOWN PERSONSRESPONDENTS**

AFFIDAVIT IN SUPPORT OF MOTION EX PARTE

I, Zeinab Zulu Gambari, female, Nigerian citizen, of No. 5, Sani Lawal Close, off Old Herald Road, GRA, Ilorin, Kwara State, do hereby make oath and state as follows:

1. That I am the 1st Applicant in this suit, widow to the late HRH Alh (Dr.) Zulkarnaini Gambari Mohammed and the mother of the 2nd – 7th Applicants and by virtue of which I am conversant with all the facts depose to herein.
2. That I have consent and authority of all the Applicants to depose to this affidavit on their behalf.
3. That I and the other Claimants filed a writ of summon before the registry of this Honorable court which is meant to be serve on the Respondents.
4. That I know as a fact that attempts have been made to serve the Respondents personally with the copy of the said writ of summon and same proved abortive.
5. That personal service could not be effected on the Respondents conveniently by the bailiff of this court because the Respondents have

- been evading service and they are not making themselves available to the bailiff of this court to effect service on them.
6. That I know as fact that all required steps necessary I and the other Claimants to serve the Respondents but to no avail.
 7. That the bailiff of this Honourable Court has sworn to an affidavit of non service before this Honourable Court.
 8. That I know as of fact as follows:
 - a. That the rules of this Honorable court allows for substituted service when personal service cannot be conveniently effected as it happened in this case.
 - b. That the Respondents will become aware of the suit pending against her if the processes of this court are sent to his whatsapp number in the case of the 1st Respondent and pasting at the last known address of the 2nd Respondent.
 - c. That the Respondents will not be prejudiced if this application is granted.
 9. That it is in the interest of justice and fairness to grant this application.
 10. That I depose to this affidavit in good faith believing the content to be true and correct in accordance with the oath act.


DEPONENT

SWORN TO AT THE HIGH COURT REGISTRY, ILORIN

THIS 10th DAY OF NOV 2025

BEFORE ME

COMMISSIONER FOR OATH
ILORIN

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BETWEEN

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7. RAKIYA AJIBOLA GAMBARI**APPLICANTS**

AND

1. AHMED BOLAKALE GAMBARI
2. UNKNOWN PERSONS**RESPONDENTS**

**WRITTEN ADDRESS IN SUPPORT OF MOTION EX PARTE FOR
SUBSTITUTED SERVICE**

INTRODUCTION

This motion ex parte for an order of substituted service is brought pursuant to Order 7(1)(2) & (5) of the Kwara State High Court Civil Procedure rules (2022) and under the inherent jurisdiction of this Honorable court. The prayers and grounds for this application is supported with a 10 paragraphs affidavit deposed to by the 1st Claimant/Applicant.

3.0 ISSUES FOR DETERMINATION

We humbly submit that the sole issue arising for your lordship's determination is:

“whether substituted service can be effected on the Respondent in the event of non-personal service on her”

4.0 LEGAL ARGUMENT

Personal service of process is germane to the institution of a suit. Its essence is to abreast the Defendant of the pending suit against him as well as to give him the opportunity of fair hearing. However, where personal service cannot be effected on the Defendant, the court can order for substituted service so as to bring the pending suit to the knowledge of the Defendant.

In the case of **JOSIAH .K. OWODUNNI & ORS VS. THE REGISTERED TRUSTEES OF CELESTIAL CHURCH OF CHRIST**

(2007) WRN III at 120, the learned law lord Muhammed J.C.A observed as follows:

“service by substituted means would only be ordered where it appears to the court (either after or without an attempt to personal service) that for any reason, personal service cannot be conveniently be effected”.

We clearly agree with the learned justice of the Court of Appeal because it is evident in this case that all attempts to serve the Respondent have been futile. We therefore submit that only legally available option i.e. by serving the 1st Defendant through his whatsapp number and by pasting the court processes at the last known address of the 2nd Defendant.

We further submit that the whole garniet of service is to ensure that the offer party is properly put on notice and given an opportunity to be heard based on the principle of natural justice, equity and good conscience. See **CALLY & CO PROPERTIES LTD & 1ORS VS. KIO-LAWSON (2007)313 at 145.**

5.0 CONCLUSION

Conclusively, we pray this Honorable court to grant our application for substituted service on the Respondent. This will uphold and ensure the principle of fair hearing and natural justice among the parties.

Most obliged.

DATED THIS 10th..... DAY OF NOV..... 2025


BILKISU TINUOLA GAMBARI
(FOR ALL THE APPLICANTS)
NO. 5, SANI LAWAL CLOSE,
OFF OLA HERALD ROAD,
GRA, ILORIN, KWARA STATE.