**In the year one thousand nine hundred and eighty-eight, the sixteenth day of March.**

Before the Deputy Judicial Greffier.

Maura Philomena Poole, née O'Rourke Plaintiff

v.

Simon Philip Silvester Poole Defendant.

Advocate S. C. K. Pallot for the Plaintiff.
Advocate P. C. Sirel for the Defendant.

This is an application by the defendant to strike out the plaintiff's action under Rule 6/13 of the Royal Court Rules, 1982, on the grounds that either it discloses no reasonable cause of action, or it is scandalous, frivolous or vexatious, or it is otherwise an abuse of the process of the court.

I do not propose to rehearse all the arguments put to me by counsel suffice it to say, they are set out in the pleadings and I have given much anxious consideration to them.

The wording of our Rule 6/13 is in virtually identical terms to Order 18, Rule 19 of the Rules of the Supreme Court and, although I was not referred to those rules as set out in the White Book, I have had recourse to the White Book to see how those rules have been interpreted in England. I quote some passages from paragraphs 18/19/3, 18/19/4 and 18/19/7.

(a) It is only in plain and obvious cases that recourse should be had to the summary process under this rule. The summary procedure under this rule can only be adopted when it can be clearly seen that a claim or answer is on the face of it "obviously unsustainable".

The summary remedy under this rule is only to be implied in plain and obvious cases when the action is one which cannot succeed or is in some way an abuse of the process or the case unarguable. It cannot be exercised by a minute and protracted examination of the documents and facts of the case, in order to see whether the plaintiff really has a cause of action.

The powers conferred by this rule will only be exercised where the case is clear beyond doubt.

The Court must be satisfied that there is no reasonable cause of action or that the proceedings are frivolous or vexatious.

(b) It has been said that the Court will not permit a plaintiff to be "driven from the judgment seat" except where the cause of action is obviously bad and almost incontestably bad.

(c) A reasonable cause of action means a cause of action with some chance of success when only the allegations in the pleading are considered. But the practice is clear. So long as the statement of claim or the particulars disclose some cause of action, or raise some question fit to be decided by a Judge or a jury, the mere fact that the case is weak, and not likely to succeed, is no ground for striking it out.

Having considered the above passages and other authorities cited in the White Book, I have come to the conclusion that the claim is not obviously unsustainable or unarguable in the context of the above passages and that the application must be dismissed. Costs will be in the cause.