



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KAKAMEGA**  
**CIVIL CASE 37 OF 2002**

**JAMES BANDI MATIA.....PLAINTIFF**

**V E R S U S**

**MUMIAS OUTGROWERS LTD.....DEFENDANT**

**R U L I N G**

The Chamber Summons application dated 31.8.11 seeks orders for extension of limitation period for filing action.

The Applicant also seeks leave to amend the Plaint and seeks further orders that the draft amended plaint be deemed as duly filed subject to the payment of requisite court fees.

The application is based on the grounds stated in the application and is supported by the annexed affidavit of JIM MATIA BANDI, the Plaintiff/Applicant.

According to the said affidavit, the applicant asserts that the proposed 2<sup>nd</sup> and 3<sup>rd</sup> Defendants who are the Attorney General and the Standard Ltd. respectively acknowledged liability as per the copies of letters dated 16.1.01 (annexure "JB 3") and a letter from the AG's Chambers dated 28.5.1997 and 30.8.2000 (annexure "JB 4" & "JB 5"). The applicant averred that material facts were concealed by the proposed Defendants until the 30<sup>th</sup> September 2000 when the Prosecution closed its case. What the applicant has not told the court is why he failed to sue the proposed 2<sup>nd</sup> and 3<sup>rd</sup> Defendants since September 2000. There is no explanation given by the applicant taking into account that the prosecution case was closed about 12 years ago. The applicant seems to have slept on his rights.

I have perused the annexed draft defence. The amendments sought relate to the proposed 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

The application has no merits and is dismissed with costs in the cause.

*Delivered, dated and signed at Kakamega this 24<sup>th</sup> day of May, 2012*

**B. THURANIRA JADEN**

**JUDGE**