

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

CIVIL CASE NO. 249 OF 2010

ALEX OTUKE ONDIMU.....PLAINTIFF

VERSUS

YUASA INTERNATIONAL LIMITED.....DEFENDANT

RULING

I have examined the application dated 29th December, 2010 and the Supporting Affidavits and annextures thereto. I have also considered the Plaintiff/Respondent's Replying Affidavits and annextures thereto.

Having heard Mr. Karuku for the Applicant and Mr. Konosi for the Plaintiff/Respondent and whereas I agree with the principles of joinder of parties as stated by Warsame J. in the case of **Kamau vs. Makomboki Tea Factory Ltd [2008] E.A. 154**. I am of the view that this is not a proper case for joinder of parties. The principal reason is this - there are two separate contracts between the Applicant and the Plaintiff in this suit. There is also a separate contract between the Plaintiff and Defendant. There is no privity of contract between the defendant and the Applicant.

The Applicant's contract is with the Plaintiff and to enforce it, the Applicant needs to file separate suit against the Plaintiffs and perhaps the Defendant as precautionary measure should the Defendant insist on repossessing any of the motor vehicles bought by the Applicant from the plaintiff.

For those reasons I will dismiss the Applicant's application dated 29th December, 2010. Each party to bear its own costs.

Dated and signed at Nakuru this 17th day of February, 2011

M. J. ANYARA EMUKULE
JUDGE

Mention on 3rd March 2011 for further directions. Interim orders to remain in force.

M. J. ANYARA EMUKULE
JUDGE