



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**COMMERCIAL & TAX DIVISION**  
**CIVIL SUIT NO. 481 OF 2009**

**AFRICAN BANKING CORPORATION KTD.....PLAINTIFF**  
**VERSUS**  
**JATCO TOURS & TAXIS CO. LIMITED.....1<sup>ST</sup> DEFENDANT**  
**DANIEL MUTUA MUOKI.....2<sup>ND</sup> DEFENDANT**  
**DANCAN MWANGI NJIRANI.....3<sup>RD</sup> DEFENDANT**

**RULING**

I have considered the summary application brought under the Notice of Motion dated 25<sup>th</sup> July 2010, seeking the following Orders:-

1. That the Statement of Defence filed by Defendants herein be struck out with costs.
2. That judgment be entered for the Plaintiff herein as prayed in the Plaint
3. That in the alternative to the above prayers, judgment on admission be entered for the Plaintiff in the sum of Kshs. 4,039,646
4. That the Defendants do pay the costs of this application in any event.

After perusing the application, the affidavits filed for and against the same and considering the pleadings and written submissions filed by the opposing sides, in light of the law, I have formed the opinion that this is not a clear case where summary judgment can issue except perhaps as regards the judgment on admission sought in prayer 3. For reasons to appear in a substantive ruling to be delivered on notice, during the forthcoming vacation, I am not inclined to allow the application. In the circumstances the matter is stayed pending the substantive Ruling.

**DATED, SIGNED AND DELIVERED at NAIROBI THIS 29<sup>TH</sup> DAY OF JULY, 2011**

**M. G. MUGO**  
**JUDGE**

In the presence of:

Miss Odongo  
Mr. Mutuli

**For the Applicant**  
**For the Respondent**