



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**

**CIVIL CASE NO. 977 OF 2005 (O.S)**

**AND**

**IN THE MATTER OF DEPRIVATION OF AFRISON EXPORT IMPORT LIMITED, HUELANDS LIMITED AND DRIVE-IN ESTATE**

**DEVELOPERS LIMITED OF THEIR INTEREST IN AND RIGHTS OVER L.R. NO. 7879/4 BY THE GOVERNMENT OF KENYA**

**BETWEEN**

**AFRISON EXPORT IMPORT LIMITED .....1<sup>ST</sup> PLAINTIFF**

**HUELANDS LIMITED .....2<sup>ND</sup> PLAINTIFF**

**DRIVE-IN ESTATE DEVELOPERS LIMITED .....3<sup>RD</sup> PLAINTIFF**

**AND**

**ATTORNEY GENERAL .....1<sup>ST</sup> DEFENDANT**

**COMMISSIONER OF LANDS .....2<sup>ND</sup> DEFENDANT**

**R U L I N G**

The Plaintiffs brought this summons on 3<sup>rd</sup> August, 2005 seeking declaratory orders against the Defendants. Their complaint was that the Defendants were served on the same day but have not responded to it. In the present application they seek leave to apply for judgment against the Defendants. In the supporting affidavit they indicate they will be seeking KShs. 11,442, 800,000/= from the Defendants. Their case is that that is the value of the land L.R. No. 7874/4 which the Government took from them by force in 1988 but did not compensate them for it.

The Defendants filed grounds of opposition to the application. There has been no explanation why the Defendants do not want to defend this claim in which such substantial public money is sought.

Under **rule 19 of the Constitution of Kenya (Supervisory Jurisdiction and Protection of Fundamental Rights and Freedoms of the Individual) High Court Practice and Procedure Rules, 2006** where the Defendant has not responded within the time provided by the law, the Plaintiffs are required to set down the matter for hearing and determination. The **Rules** do not provide for an interlocutory judgment, or the application of **Order 9A rules 7 and 11 of the Civil Procedure Rules**.

In short, the application is incompetent and is struck out with costs.

**DATED AND DELIVERED AT NAIROBI**  
**THIS 21<sup>ST</sup> DAY OF OCTOBER 2010**

**A. O. MUCHELULE**  
**J U D G E**