



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
COMMERCIAL & TAX DIVISION
CIVIL CASE NO. 590 OF 2009

DUNCAN CHUHI MUNGAI..

.....**PLAINTIFF/APPLICANT**

VERSUS

**KIAMBU UNITY FINANCE
CO-OPERATIVE**

UNION..... 1ST DEFENDANT/APPLICANT

**GLADSOM AUCTIONEERS
LIMITED.....**

.....**2ND DEFENDANT/APPLIANT**

RULING

The 1st Defendant/Applicant in the Notice of Motion, dated 12th October, 2010 prays that this court be pleased to review the Ruling of the Honourable Lady Justice Koome delivered on 26th March, 2010 and award costs of the suit to the applicant.

The application is premised on the ground that there is an error apparent on the face of the Ruling in that whereas the court allowed with costs the applicant’s Chamber Summons dated 1st December, 2009 for striking out the plaintiff’s suit **under Order V1 Rules 13 (b) and (c)** the court failed to order that the costs of the suit be paid to the 1st Defendant/Applicant.

Although served, the Plaintiff did not attend at the hearing of the application. However, it is clear from the court’s ruling that the merits of the suit were weighed as per the pleadings filed before the suit was summarily dismissed as against the 1st Defendant.

Paragraph 2 of the Ruling of 26th March, 2010 clearly states that the applicant had prayed that the suit be dismissed with costs being awarded to it. I am satisfied that the omission must have been pure inadvertence on the part of the court and should be corrected in the interests of justice.

Accordingly the Notice of Motion dated 12th October, 2010 is hereby allowed with no orders as to costs.

DATED SIGNED and DELIVERED at NAIROBI this 16TH day of NOVEMBER, 2010

M. G. MUGO
JUDGE

In the presence of:

Mr Okuiri

For the Applicant

No appearance

For the Respondent