



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MALINDI
CIVIL SUIT NO. 123 OF 2009

FLEET WOOD ENTERPRISES LIMITEDPLAINTIFF

VERSUS

JOHN NGATA KARIUKI.....DEFENDANT
THE ATTORNEY GENERAL.....DEFENDANT

RULING

The Chamber Summons application is dated 9th August 2010 seeking leave for judgment to be entered against the Attorney General in default of filing defence within the prescribed time.

The application is made under order IXA Rule 7 and 11 Civil Procedure Rules. While the application is brought under the current provisions, and indeed the Attorney General entered appearance I pause to ask, was there a Notice of Intention to sue served and filed? I have gone through the court records and find none.

The provisions under the Government proceedings Act section 13 (A) (1) requires that notice of intention to sue in writing, must be served on the Government and the proceedings shall not be instituted until after the expiry of a period of thirty days. The notice is in a format set out in Third schedule of Cap 40.

All that I see is a letter reminding Attorney General that no defence has been filed and plaintiff's intent to apply for entry of judgment after a lapse of 14 days. That is not the same as a Notice of Intention to sue which ought to be served on the.

For this reason the, I decline to grant the prayers sought.
The application is dismissed with costs

Delivered and dated this 15th day of December 2010 at Malindi

H. A. OMONDI
JUDGE

Delivered in absence of parties
Registry to notify parties that judgment has been delivered.