



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI COMMERCIAL COURTS)**

**Civil Suit 635 of 2008**

**INDUSTRIAL POLYMERS (AFRICA) LIMITED..... PLAINTIFF**

**VERSUS**

**FLEXPAC INTERNTIONAL LIMITD.....DEFENDANT**

**RULING**

The Plaintiff/Applicant filed a Notice of Motion dated 13/2/09 seeking for judgment on admission against the defendant in the sum of KShs.5,073,760/= with interest and costs. The application is granted on the facts that the Defendants owed the Plaintiff a sum of KShs.6,073,760 at the inception of the suit but upon demand of payment a sum of Kshs.1,000,000/= has been paid. The application is to be supported by the Affidavit of Abdul M. Rashid who has given a .....and documents of goods/materials delivered to the Defendants from time to time at their requests.

A demand was sent to the Defendant and by a letter dated 1<sup>st</sup> October 2008 the Defendant paid a sum of KShs.1,000,000/= and admitted to pay the balance. The plaintiff now seeks for summary judgment on ....of admission. The defence filed Defendant is a mere denial in view of the admission and evidence of delivery of goods. Although the Defendant counsel were served with the application they failed to attend the court for the hearing.

I have considered the application, the supporting documents and the argument by counsel for the Plaintiff. The letter dated 1<sup>st</sup> October 2008 by the Defendant admits the debts and promised to pay KShs.1 million by the end of the month and the balance at a later date. This was followed by a letter dated 14<sup>th</sup> November, 2008 when they enclosed a cheque of KShs.1 million. In the ... of these letters the defence filed herein is a mere sham. The Plaintiff is entitled the summary judgment as admitted. The application dated 13<sup>th</sup> February, 2009 is hereby allowed with costs and interest at court rates.

It is so ordered.

Signed and read this 28<sup>th</sup> day of May 2009.

**M. K. KOOME**

**JUDGE**