



REPUBLIC OF KENYA

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

**Civil Case 372 of 2006**

**ALEX S. MASIKA:.....PLAINTIFF**

**VERSUS**

**EPCO BUILDERS LIMITED:.....DEFENDANT**

**R U L I N G**

The Plaintiff herein **ALEX S. MASIKA** is the Applicant herein. He moves the court under Order XXXV Rules 1 (1) a, (2) (3) and 9 of the Civil Procedure Rules and Section 3A of the Civil Procedure Act and all enabling provisions of the Law that summary judgment be entered for the plaintiff against the Defendant in the sum of Kshs.1, 191,006.80 being the taxed sum in the suit. It is brought on the grounds that the Defendant is truly and justly indebted to the plaintiff and the sum due is the taxed costs between Advocate and client. That the defence filed is a sham not disclosing any triable issues and it is likely to delay the fair trial of the suit herein.

The Application is supported by the supporting Affidavit of the Applicant which explains the events leading to the amount being claimed now. Nothing is filed in opposition thereto.

I have given due consideration to this application. I have seen the annexure marked ASM 8 which is the certificate of Taxation issued in HC.CC.Mis. Civil Application No.952 of 2006. I find that the amount sought is properly due and the defence as filed does not in any way challenge it. I accordingly enter judgment for the plaintiff in the sum of Kshs.1, 191,006.80 together with costs of the Application and of the suit.

Orders accordingly.

**DATED AT ELDORET THIS 11<sup>TH</sup> DAY OF MAY, 2009.**

**P. M. MWILU**

**JUDGE**

**DELIVERED AT NAIROBI THIS 15<sup>TH</sup> DAY OF MAY, 2009.**

**J. W. LESIIT**

**JUDGE**

**IN THE PRESENCE OF:-**

.....Court Clerk

.....Advocate for the Plaintiff

.....Defendant