



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**COMMERCIAL CIVIL SUIT 177 OF 2006**

KANIKI KARISA KANIKI ..... PLAINTIFF

VERSUS

COMMERCIAL BANK OF AFRICA ..... 1<sup>ST</sup> DEFENDANT

GIRO COMMERCIAL BANK LTD ..... 2<sup>ND</sup> DEFENDANT

MIATHENE-MALINDI ENTERPRISES LTD ..... 3<sup>RD</sup> DEFENDANT

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**RULING**

By this application brought by way of Chamber Summons and dated 10<sup>th</sup> June 2008 the 3<sup>rd</sup> Defendant/Applicant seeks the following orders:-

- “(1) That the suit against the 3<sup>rd</sup> defendant be struck of as disclosing no reasonable cause of action.*
- (2) That costs of the application be provided for”*

By consent both Mr. Anyanzwa for the Plaintiff and Mr. Kaburu for the 3<sup>rd</sup> Defendant/Applicant opted to proceed by way of written submissions. I have carefully considered the written submissions of both advocates as well as the authorities annexed thereto. I am convinced that the Plaintiffs suit raises weighty issues which cannot be disposed of at this interlocutory stage. It is my considered opinion that the issues raised can only rightfully be canvassed at a full hearing of the suit. It is only then that the issues raised by the 3<sup>rd</sup> Defendant in this Chamber Summons may be conclusively determined. As such I dismiss this current application in its entirety and decline to grant the orders sought. Costs in the cause.

**Dated and delivered at Mombasa this 16<sup>th</sup> day of July 2009.**

**M. ODERO**

**JUDGE**

Read in the presence of:

Mr. Anyanzwa for Plaintiff/Respondent

No appearance by Defendant/Applicant