



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI

MILIMANI LAW COURTS

Miscellaneous 25A of 2006

AVTAR SINGH SURA..... PLAINTIFF

V E R S U S

THE ATTORNEY GENERAL..... DEFENDANT

R U L I N G

This is a Notice of Motion dated 26th February, 2006 said to be filed under section 3A and 39 of the Civil Procedure Act (*Cap. 21*), and Order XX Rule 3 (3), and Order L Rule 1 of the Civil procedure Rules. It seeks for 6 orders, one of which has been spent, that-

1. *(spent)*
2. *The judgment of the Honourable Mr. Justice G. Dulu delivered herein on 25th November, 2008 be amended so as to rectify an accidental error apparent in the said Judgment.*
3. *The said Judgment per the amended decree of 7th December, 2006 to read that the decretal amount of Kshs.122,770/= be paid with interest at 12% per annum from the date of filing suit until payment in full and not per the original decree of 16th December, 2003 as contained in the said judgment.*
4. *In the circumstances, the true and correct period from which the interest awarded to the applicant on the decretal amount should be from the date of filing suit.*
5. *Such further orders and or directions be given to the intent that the amounts payable by the Respondent to the applicant be fully and finally determined.*
6. *The costs of this application be provided for.*

There are grounds on the face of the Notice of Motion. The application was also supported by an affidavit sworn by **CAROLINE A. OMONDI** advocate for the applicant on 24th February, 2009.

The application does not appear to be opposed. Mr. Waudo for the respondent left the matter to court for a decision.

It is apparent that the application is based on the amended decree signed by the Deputy Registrar on 7th December, 2006. I have not seen or shown the judgment of Visram J. I am not quite certain whether the said amended decree amended on 7th December, 2006 reflected

what was contained in the Judgment of Visram J. For this reason, I cannot grant the amendment orders sought in the absence of the decision of the Judge.

This is a court of justice, and therefore parties should not suffer because of errors which can be corrected. However, the Law Reform Act Section 8 (3) of Cap. 26 provides that the order of court is final and not subject to review. This is the second reason why I will not grant the amendment sought.

I therefore disallow the application and decline to grant the orders sought.

It is so ordered.

Dated and delivered at Nairobi this 26th day of November, 2009.

George Dulu
Judge.

In the presence of-

Ms. Wasuna for the applicant

David Court Clerk