



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KAKAMEGA**  
**Civil Case 376 of 1992**

**RAMSHI V. PATEL ..... 1ST OBJECTOR/APPLICANT**

**JECKIE JUMBA ..... 2ND OBJECTOR/APPLICANT**

**V E R S U S**

**M/S LULU DRY CLEANERS LTD. & OTHERS ..... PLAINTIFF**

**R U L I N G**

The applicant/2<sup>nd</sup> Objector filed his application dated 21<sup>st</sup> August, 2009 seeking orders that this Honourable Court do direct Mr. Laban Anziya Advocate to furnish the Objector/applicant with copies of the ex-parte application he filed for the judgement dated 19<sup>th</sup> June, 2008 to enable him amend his application for review of judgement. The applicant would also like to be furnished with the proceedings and judgement of Hon. Justice Ochieng dated 19<sup>th</sup> June, 2008 and the ex-parte order dated 28<sup>th</sup> October, 2008.

The applicant appeared in person and contended that upon being supplied with documents being sought by Mr. Laban Anziya he would be able to take further steps. He would like to find out whether the application by Mr. Anziya was orally made or whether Justice Ochieng just gave the order orally.

I have perused the record of this case and do note that no orders were made by Justice Ochieng on 19<sup>th</sup> June, 2008. The record shows that the first time Justice Ochieng handled the matter was 14<sup>th</sup> October, 2008 when the applicant appeared before him.

The applicant informed the court that he had not served the 3<sup>rd</sup> defendant and sought for an adjournment. He was granted an adjournment and the applicant's application dated 18<sup>th</sup> September, 2008 was stood over to 28<sup>th</sup> October, 2008.

On 28<sup>th</sup> October, 2008 the applicant did not attend court and Mr. Anziya orally urged the court to dismiss the applicant's application dated 18<sup>th</sup> September, 2008 for non attendance. Justice Ochieng dismissed the applicant/objector's application dated 18<sup>th</sup> September, 2008 together with the amended application dated 13<sup>th</sup> October, 2008 with costs to the defendants. It is clear from the record, that there was no written application before the court on 28<sup>th</sup> October, 2008.. Mr. anziya simply orally requested the court to dismiss the applications for non

attendance. The applicant herein is at liberty to make an application and explain why he was not in court on 28<sup>th</sup> October, 2008 yet the date had been given in his presence on 14<sup>th</sup> October, 2008.

There is no other date Justice Ochieng handled the matter. The applicant is also seeking the proceedings for this matter. I have seen typed proceedings up to 19<sup>th</sup> June, 2000. I do order that the remaining proceedings be typed and the applicant be issued with certified copies upon payment of the required fee.

In the end, I am not able to grant prayer 2 of the application dated 21<sup>st</sup> August, 2009 as there were no proceedings before Justice Ochieng on 19<sup>th</sup> June, 2008. Mr. Laban Anziya had not filed any application or documents for determination by the court. The applicant is at liberty to execute the remainder of his application. There will be no order as to costs.

*Delivered, dated and signed at Kakamega this 12<sup>th</sup> day of November, 2009*

**SAID J. CHITEMBWE**

**J U D G E**