

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/2nd Objector filed his application dated 21st 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 19th 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 19th June, 2008 and the ex-parte order dated 28th 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 19th June, 2008. The record shows that the first time Justice Ochieng handled the matter was 14th October, 2008 when the applicant appeared before him.

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

On 28th October, 2008 the applicant did not attend court and Mr. Anziya orally urged the court to dismiss the applicant's application dated 18th September, 2008 for non attendance. Justice Ochieng dismissed the applicant/objector's application dated 18th September, 2008 together with the amended application dated 13th October, 2008 with costs to the defendants. It is clear from the record, that there was no written application before the court on 28th 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 28th October, 2008 yet the date had been given in his presence on 14th 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 19th 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 21st August, 2009 as there were no proceedings before Justice Ochieng on 19th 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 12th day of November, 2009

SAID J. CHITEMBWE

J U D G E