

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

Civil Suit 580 of 2008

MILICONS LIMITED.....PLAINTIFF

VERSUS

RAJIV SHAH T/A KENYA MOTOR SPORTS CLUB.....DEFENDANT

R U L I N G

The Plaintiff moves this court under Sections 95 and 3A of the Civil Procedure Act and Order VIII Rules 17(1) and 20 of the Civil Procedure Rules and all other enabling Provisions of the Law to be granted leave to file a Reply to Defence out of time. The application is based on the grounds inter alia that there was breakdown in communication between the Plaintiff and its counsel due to the political situation prevailing in the country during January 2008 and so the Plaintiff could not give instructions to its counsel in time to file a reply to Defence. That the Defence raises issues which require to be responded to. The application is supported by the supporting Affidavit of **PHILEMON KOECH** an Advocate of the court which explains the circumstances that led to the delay in taking further instructions from the Plaintiff and the delay in filing the Reply to the Defence. The submissions in court affirmed the contents of the said affidavit.

There is filed in court an affidavit of service to the effect that the application was served on the Advocates for the Defendants on the 19/02/08. There was no appearance for the Defendant on 02/04/08 when the matter was fixed to be heard.

I have considered the application and the annexures to the same. I find that the same merits to be allowed. It has not been brought after a long delay and therefore the same is allowed as follows:-

Leave be and is hereby granted to the Plaintiff to file a Reply to Defence as per the annexed draft.

Such Reply to defence be filed and served within TEN (10) days of the date hereof.

DATED and DELIVERED in open court in NAIROBI this 17th day of **April 2008**

In the presence of Matheka for the Applicant.

P. M. MWILU

JUDGE

17.04.2008