



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MOMBASA**

**Commercial Civil Suit 84 of 2005**

**JANENDRA RAICHAND SHAH & 2 OTHERS .....PLAINTIFF**

**VERSUS**

**MISTRY VALJI NARAN MULJI.....DEFENDANT**

**R U L I N G**

It is clear from the record and counsel submissions that the motion dated 14.3.2008 was listed for mention for purposes of fixing a hearing date. The Respondent in fact filed a replying affidavit on 3/4/2008 and I doubt whether he served the same upon the applicant's counsel. After a careful consideration of the circumstances behind this matter I am of the view that it will be unfair to dismiss the motion. A fair order which hereby issued is to direct that the motion be fixed for interpartes hearing within 15 days. The interim orders issued on 18/3/2008 are extended for a further 15 days.

**Dated and delivered this 4<sup>th</sup> day of April 2008.**

**J.K. SERGON**

**J U D G E**