

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Civil Case 673 of 2006

KARIUKI MUIGUA T/A KARIUKI MUIGUA & CO. ADVOCATES.....PLAINTIFF

VERSUS

STANDARD LIMITED.....DEFENDANT

RULING

The Plaintiff brought an application by way of Notice of Motion under Order L Rule 1 of the Civil Procedure Rules and Section 3A of the Civil Procedure Act dated and filed in court on 6th July 2006 seeking orders that the Group Managing Editor Chacha Mwita and Correspondence writer of the Defendant Kodi Bartha be summoned to appear before the court to show cause why they should not be committed to civil jail for contempt of court. While that application was pending, he brought this application on 22nd January 2007 under Section 3A and 63 (e) of the Civil Procedure Act seeking orders that the earlier contempt proceedings filed on 6th July 2006 be heard on priority basis.

The application is opposed on the ground that the reason why the applicant wants his application to be heard on priority basis is because he wants to punish the Respondent in the contempt proceedings.

Ordinarily there is nothing wrong for a party wishing to that his application be heard on priority basis. But it is not necessary to file a formal application to seek an early date. All that the applicant needed to do is to ask for a mention date before the Duty Judge and seek a date on priority basis.

The Respondent also has a pending application seeking orders to strike out the Applicant's plaint.

That being the position it is my considered opinion that the contempt proceedings ought to be heard before the Defendant's application to strike out the suit is heard because in the event, the Defendant's application to strike out the Plaintiff's suit is successful, it will go with the Plaintiff's contempt proceedings unheard.

Accordingly I exercise my discretion in favour of the Applicant and order that the Notice of Motion dated 6th July 2006 be heard in priority to other applications in this matter.

Dated and delivered at Nairobi this 20th day of July 2007.

J.L.A. OSIEMO

JUDGE