



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MALINDI

Civil Case 21 of 2007

GIODANO ERNESTO ITALO NOTOLLONE.....PLAINTIFF

VERSUS

ALFRED M. OMWANCHA.....DEFENDANT

R U L I N G

By a chamber summons dated 19th June 2007 pursuant to the provisions of Order XXXVI Rule 8A of the Civil Procedure Rules, the applicant seeks orders.

- 1) That the honourable Court be pleased to give directions as are necessary for the expedient determination of the applicant's claim.
- 2) That directions for the payments of Cost of and incidental to this application be given.

The application is based on the grounds:-

1. That it appears from the record of the honourable Court, that the respondent has entered appearance to the originating summons filed. He has not filed his replying affidavit nor any other form of response to the claim.
2. That it is necessary that directions are given so that this matter can progress.

The application is supported by the annexed affidavit of Giordano Ernesto Italo Notollone sworn on the 19th day of June 2007.

For the applicant, it was argued that the respondent has entered appearance to the originating summons but has neither filed replying affidavit or any other form of response thereto.

That in the circumstances the court should give directions that:

- i) the respondent does file any response he may wish to file within 7 days of the date of the orders granted by the court
- ii) should the respondent have a claim for fee, his claim be taxed within a time to be stated in the order directing such taxation

- iii) any other or further order the court may deem fit to grant
- iv) directions as to the costs of the proceedings.

The respondent did not file any grounds of opposition or replying affidavit. The respondent further repeated in court that he was not opposing the application.

In the foregoing circumstances the application is granted in the following terms:

- i) the respondent does file any response he may wish to file within seven (7) days from the date of this order
- ii) in the event the respondent have a claim for fees, such claim be lodged and taxed within 30 days from the date of this order
- iii) Costs be in the cause.

Dated and delivered at Malindi this 3rd day of September 2007.

N.R.O.OMBIJA

JUDGE

Mr.Mouko } for respondent.

Mr.Kinyua } for applicant.