

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT BUNGOMA

Civil Suit 143 of 1999

MATHIAS KINIALE

SIFUNAPLAINTIFF

VS

EASTERN KITUI STORES & 2 OTHERS.....DEFENDANTS

RULING

By an ex-parte oral application, pursuant to the provisions of order XV, Rule 10(3) of the Civil Procedure Code, the applicant sought orders for issuance of warrant of arrest against the directors of the first defendant herein who were summoned to appear in person for oral examination as to the debts due and owing to the judgment debtor herein and if so the manner of satisfying the decree.

It is instructive to note that the procedure to bring such an application is not provided for under Order XV, Rule 10(3). Accordingly, an applicant falls back to Order L, Rule 1 of the Civil Procedure Code which provides:

“All applications to the court, save where otherwise expressly provided for under these Rules, shall be by motion and shall be heard in open court”.

I have no application by way of Notice of Motion upon which I can act.

Accordingly, I direct the applicant to make the necessary application within 30 days from the date of this order.

DATED and DELIVERED at BUNGOMA this 14th day of June 2006.

N.R.O. OMBIJA

JUDGE