

REPULIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL DIVISION MILIMANI

Civil Suit 82 of 2005

KENYA LITHO LIMITEDPLAINTIFF

VERSUS

INDEPENDENT TEA PACKERS LIMITEDDEFENDANT

R U L I N G

The plaintiff has brought an application by Notice of Motion brought under the provisions of order 12 Rule 6 and Order 50 Rule 1 and 3 of the Civil Procedure Rules.

The plaintiff seeks an order that judgment be entered as against the defendant as prayed in the plaint.

The plaintiff's application is grounded on the ground that the defendant wholly admitted the plaintiff's claim in paragraph 2 of the defence.

Paragraph 2 of the defendant's defence states

“The defendant admits the contents of paragraph 3 and 4 of the plaint but avers that it is unable to make good the plaintiffs claim because it is no longer trading, has no means of income and neither has assets which can be liquidated to pay the claim.”

Having the above averment in mind I am satisfied that the defendant has made admission of the plaintiff's claim, and accordingly the application is merited.

The order of the court is: -

- (1) That judgment is entered in favour of the plaintiff as prayed in the plaint.**
- (2) The plaintiff is granted the costs of the application dated 23rd March 2005.**

Dated and delivered at Nairobi this 29th July 2005.

MARY KASANGO

JUDGE

