



**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL DIVISION, MILIMANI**  
**Civil Suit 339 of 2005**

MATRIX TECHNOLOGIES LIMITED.....LIMITED  
VERSUS  
SHEILA KINYA MAINGI  
T/A RIZIKI COMMUNICATIONS.....DEFENDANT

**R U L I N G**

The defendant by a chambers summons brought under Order VI Rule 8 of the Civil Procedure Rules seeks an order that the plaintiff do supply further and better particulars of the plaint within 14 days in default that the plaint be struck out.

The plaintiff counsel even though served with the application failed to attend on the day of hearing.

The defendant seeks the particulars on the basis that the plaint is too vague and does not contain the necessary particulars to enable the defendant understand the case against her.

I have examined the plaint and I am in agreement with the defendant that it indeed lacks particulars. The paragraphs relating to the claim state as follows: -

**“The plaintiff’s claim against the defendant is for the sum of kshs 4, 327, 155. 40 due and owing to the plaintiff on account of goods supplied to the defendant.**

**Demand has been made and notice given of intention to sue but the defendant has failed, refused and/or neglected to settle the account thus rendering this suit necessary.”**

Although it is required that all pleadings be precise they must also embody all the particulars. The object of having particulars in pleadings is to ensure that the other party is not taken by surprise at the trial and to define the issues to be tried so as to save unnecessary expense.

I have perused the defendant’s request for particulars and I find that request number (i) to (iv) are necessary pertinent and material to the plaint hereof; but request number (v) is in my view not material and does seem to be requesting for evidence rather than particulars.

The defendant’s application is merited and the orders of this court are:

**(a) The plaintiff do within 14 days deliver to the defendant further and better particulars of the plaint dated 31st June 2005, more particular request No (i) to (iv) only.**

**(b) In default this suit will be stayed and the defendant will be at liberty to apply for dismissal of the suit under Order XVI Rule 5 for want of prosecution.**

**(c) The costs of the application dated 12th July 2005 are awarded to the defendant**

Dated and delivered at Nairobi this 22nd of July 2005.

**MARY KASANGO**

**JUDGE**