

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ELDORET
CIVIL CASE NO. 46 OF 1998

NATIONAL BANK OF KENYA LIMITEDPLAINTIFF

-VERSUS-

PAUL KIPTIGIN SITIENEI DEFENDANT

RULING

This case came for hearing on 4th December 2003. While the advocate for the defendant was present, the plaintiff and their advocates were not present.

It is obvious from the records that the case was fixed for hearing by the advocate for the plaintiff in the court registry in the absence of the advocate for the defendant. There appears therefore, to be no justification why both the plaintiff and their advocates were absent during the hearing. On that ground of the absence of the plaintiff and their advocates, Mr. Ngigi for the defendant applied to court to dismiss the plaintiff's suit under Order 9A Rule 4 (1) Civil Procedure Rules.

Having perused the Order and Rule, I observe that the court is allowed to dismiss the plaintiff's suit if the defendant does not admit any part of the claim. In the defence dated 15th May, 1998 and filed on the same date, the defendant does not admit any part of the claim. I therefore dismiss the plaintiff's case under the powers conferred on me under Order 9B Rule 4 (1) of the Civil Procedure Rules. I award costs of the suit to the defendants.

Dated and Delivered at Eldoret this Day of 2004.

George Dulu,
Judge