

IN THE HIGH COURT OF KENYA AT KISII

CIVIL CASE NO.45 OF 2000

STEPHEN NGARE NYAMBOKI PLAINTIFF/RESPONDENT

VERSUS

UNITED INSURANCE CO. LTD. DEFENDANT/APPLICANT

RULING:

I have considered the application for adjournment and reply thereto. The counsel for the defendant does not seem diligent enough. Consent order to set aside judgment was entered way back on 4th December 2003. He should have brought any application by now. However going through the file I do note that plaint was indeed amended twice.

The defendant should have filed his amended defence even without the application immediately after plaint was filed. It seems there was laxity or confusion on his part. Court will therefore reluctantly grant the application sought.

Order: Hearing stood over generally. Defendant do bring his application if any within 7 days from today's date. Defendant to pay court adjournment fees and today's costs of shs.5000/= to the plaintiff together with the costs awarded on 4/12/03 before filling the application.

KABURU BAUNI

JUDGE

10/3/04