

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

CIVIL CASE NO. 861 OF 1995

PAN AFRICAN SYNDICATE LTD.....PLAINTIFF
=V E R S U S=
E.A. MOLASSES EPZ LTD.....DEFENDANT
R U L I N G

On 25th November, 2003 this court rejected application to adjourn suit and proceeded to hear and enter judgment for the Plaintiff in this suit. At that time the grounds advanced were similar as grounds advanced in this application that the day was on religious occasion not Gazetted to a section of some Moslem Sect to which the advocate Ghalia and his clients and the witnesses belonged. And therefore they were unable to attend court on their Holy date.

Mr. Ghalia himself has impressed upon this court the religious importance of the ceremony and has indicated he could not set aside his religious obligations in order to attend court.

The court has discretion to reconsider its decision in a matter such as this. The Defendant had filed its defence and was willing to defend the case were it not the interruption by religious matters.

In the circumstances, I exercise discretion in favour of the Defendant.

Judgment entered on 25/11/03 is hereby set aside on condition that the sum of Kshs.900,000/- is deposited by Defendant in court within the next thirty (30) days. In default the Judgment shall be reinstated and the Plaintiff shall be at liberty to execute.

Dated this 30th day of July, 2004.

JOYCE KHAMINWA

J U D G E

30/7/04

Mr. Kingo – H/B

Mr. Otieno – H/B

Ruling read in their presence.

JOYCE KHAMINWA, J.

