

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

CIVIL APPEAL 17 OF 1997

MERCANTILE TRADERS LIMITED APPELLANT
- V E R S U S -

SALMA M. MOHAMEDBHAI

MALEKA A. OKABHAI

REHMAT T. RUNGWALLA RESPONDENTS
R U L I N G

Before the court is a Notice of Motion dated 26.7.04 seeking to amend the judgment passed in this court on 18.9.2003. Upon a perusal of last page of the judgment it states:-

“However in his submissions at the hearing the Counsel for applicant (Mr. Kasamani) state d that the tenant has vacated and matters should be left as it is. If that is the case the court does allow the appeal and award costs to the tenant, the appellants in this appeal and in the Tribunal”.

It is my view that the complaint raised now was not in the grounds of appeal and was not argued and this court is now functus officio.

There is no error disclosed on the face of the record. Application is dismissed with costs.

Dated this 12th day of November, 2004.

J. KHAMINWA

JUDGE

12.11.04

Khaminwa – judge

Cege – Court Clerk

Ms. Kasamani

Mr. Rono holding brief.

Ruling read in their presence in open court.

J. KHAMINWA

JUDGE