



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CIVIL APPEAL NO. 175 OF 2002**

**ZAINABU NAIGA ..... APPELLANT**

**- VERSUS -**

**VALENTINE EDUCATION LTD. )**

**M.A. JAGANI AUCTIONEERS )..... RESPONDENT**

**R U L I N G**

The application by a (summons) dated 29th November 2002 seeks leave to file a supplementary Affidavit sworn on 27.11.02 and a Further Affidavit on the grounds that the information therein is crucial in arriving at a fair and just decision.

There was no Replying Affidavit nor grounds of opposition filed but Mr. Gatonye for the Respondent in answer to the same said Supplementary Affidavit was irregularly on record. I have no doubt the Supplementary Affidavit dated 17.11.02 is indeed irregularly on record and is what the application seeks to regularize. No reasons have been given against granting such orders. The circumstances, the orders sought are granted. The Supplementary Affidavit shall be deemed as properly on record. A Further Affidavit shall be filed and served within 3 days hereof.

Costs of the application to the Respondent.

**Dated at Mombasa this 14th day of February, 2003.**

**P.M. TUTUI**

**COMMISSIONER OF ASSIZE**