

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL SUIT NO.138 OF 2000

ALBERTO CANALE PLAINTIFF
VERSUS
GIOVANNI GREMMO DEFENDANT
R U L I N G

Before me for hearing is an application dated 27.1.03 brought under the Provisions of order 44 rule 2 and 50 rule 1 of the Civil Procedure Rules. Mr. Machuka for the Applicant however applied for the grant of leave allowing him to file a Supplementally Affidavit which he had already filed. The application was however opposed by Mr. Asige on the ground that the Firm of Ben Ochieng are not properly on record. I have however noted that there is a consent filed as between the Firms of Ben Ochieng and that of Lunghanje as regards representation. As to whether the procedure used is correct or is not for me to decide at this stage.

The issue for consideration at this point is to whether the plaintiff is to have leave to file a Supplementary Affidavit. No other objection has been raised and in the circumstances I will grant the same. The Defendant shall also have leave to file a further Affidavit in Reply if need be.

Dated and Delivered at Mombasa this February, 2003.

P.M. TUTUI
COMMISSIONER OF ASSIZE

5.2.03

Coram: P.M. Tutui Commissioner
Court clerk – Bakari
Asige for Respondent
Machuka for Applicant
Ruling Delivered.
P.M. TUTUI – C.A.