



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CIVIL CASE NO.782 OF 2001**

**CO-OPERATIVE MERCHANT BANK LTD. .... PLAINTIFF**

**VERSUS**

**COLIN OTIENO ..... DEFENDANT**

**R U L I N G**

The applicant has brought this application under O. 6 Rule 13 (1) and 16, O. IXA Rule 3 and 11 and O.XII Rule 6 to strike out the defence filed herein by the defendant and also to enter judgment in favour of the plaintiff against the defendant as prayed in the plaint. The application is supported by an affidavit sworn on 17.4.2002 by Kennedy Kaunda Abuga and is based on the grounds appearing in the body of the application.

On the basis of the evidence contained in the supporting affidavit and also upon consideration of submissions by learned counsel for the applicant, I am satisfied that the defence filed herein by the defendant is a sham which discloses no triable issues and is solely meant to prejudice, embarrass and delay the course of justice. By reason of the foregoing, the application is granted and judgment entered in favour of the plaintiff against the defendant as prayed in the plaint. The defendant will bear the plaintiff's costs of this application.

Dated at Nairobi this 11th day of June, 2002.

**T. MBALUTO**

**JUDGE**