



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI  
MILIMANI COMMERCIAL COURTS  
CIVIL CASE NO.1221 OF 2001

NAIROBI VETERINARY CENTER LTD. ....PLAINTIFF  
VERSUS  
AGRICULTURAL DEVELOPMENT CORPORATION ...1ST DEFENDANT  
AGRICULTURAL FINANCE CORPORATION ..... 2ND DEFENDANT

RULING

The Defendant by way of this Chamber Summons expressed to be brought under Order VI Rule 13 of the Civil Procedure Rules seeks orders that the Plaintiff's suit be struck out.

The application is based on the ground that this suit was filed on 3.8.2001 and since that time no summons to enter appearance has been served upon the Defendant. The Plaintiff was served but did not attend to defend the application. Mrs Mbabu on behalf of the Defendant submitted that since this suit was filed on 3.8.2001 no summons have been served upon the Defendant to enter appearance and it is now over 12 months which violates the provisions of Order 5 rule 1 which provides: -

“1(1) A summons (other than a current summons) shall be valid in the first instance for 12 months beginning with the date of its issue and a current summons shall be valid in the first instance for the period of validity of the original summons which is unexpired at the date of issue of the concurrent summons”

Subsection 2 provides that where a summons has not been served on a Defendant the Court may extend the validity of the summons from time to time if satisfied that it is just to do so. In the instance suit, no application has been made to extend the summons for whatever reasons nor did the Plaintiff attend although he was served with this application.

In the circumstances, I see no valid reason to extend the summons and an application having been made to strike out the suit, it is only fair and just that the orders sought by the Defendant be granted.

The Plaintiff's suit is struck out with costs.

DATED at Nairobi this 27th day of November 2002.

**J.L.A. OSIEMO**  
**JUDGE**