

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL COURTS

CIVIL CASE NO. 118 OF 1998

TRUST BANK LIMITED.....PLAINTIFF

VERSUS

GEOFFREY MAKANA ASANYO.....DEFENDANT

RULING

This application is stated to have been brought under 0. IXB Rules XLIV (sic) of the Civil Procedure Act. It seeks amongst other reliefs, an order of stay of execution pending the hearing and determination of the application; the review of the judgment and decree herein; the setting aside and/or vacation of the judgment as well as the dismissal of the suit with costs.

The first observation I wish to make regarding the application is that there is no. 0. IXB Rule XLIV in our Civil Procedure Act or the Rules made thereunder and it is therefore clear that a non-existent rule has been invoked in support of the application thereby rendering it hopelessly incompetent. The second point is that it is trite law that in an application for the review of a decree or order, the decree or order sought to be reviewed should not only be extracted but should also be annexed to the application. Since no such decree has been extracted or annexed to this application, there is in law nothing to review.

The application is for the above reasons incompetent and misconceived and must be dismissed with costs. It is so ordered.

Dated at Nairobi this 17th day of December, 2002.

T. MBALUTO

JUDGE