



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
MILIMANI COMMERCIAL COURTS  
CIVIL CASE NO. 1131 OF 2001 (O.S.)**

**NAKUMATT HOLDINGS LIMITED ..... PLAINTIFF  
VERSUS  
KENYA WILDLIFE SERVICES ..... DEFENDANT**

**RULING**

This originating summons taken out by the plaintiff on 24th July, 2001 seeks an order of this court to refer a dispute which is alleged to have arisen between the plaintiff and the defendant to arbitration and that an arbitrator be appointed, out of a list of three names given in the affidavit in support of the application sworn by Atul Shah, who is a director of the plaintiff company. The appointment of an arbitrator is provided for in an agreement between the parties dated 22.12.1999. I have to point out that this originating summons does not specify which Arbitration Act is being invoked. Furthermore, the title of the summons does not indicate pursuant to which rule the matter has been brought.

When the originating summons came up for hearing before me on 22.11.2001, Mr. Nyamu for the defendant raised a preliminary objection in which he contended that the application was patently incompetent and should be dismissed.

Having carefully looked at the originating summons now before me, it is impossible to tell under what provisions of the law the same has been brought. I therefore agree with Mr. Nyamu that the application is patently defective and cannot succeed. It is for that reason dismissed with costs.

**Dated at Nairobi this 14th day of December, 2001.**

**T. MBALUTO**

**JUDGE**