



**IN THE HIGH COURT OF KENYA AT NAIROBI**

**H.C.CIVIL CASE NO.1508 OF 1994**

**HENRY NJOROGE ..... PLAINTIFF**

**VERSUS**

**RURAL URBAN CREDIT FINANCE CO.)**

**LTD & ANOTHER ..... DEFENDANTS**

**RULING**

This application by way of notice of motion brought under section 241(I)(a)(b) and (c) section 228 of the companies Act and order LR 1 of the CPR seeks orders that the Plaintiff be at liberty to continue with the proceedings instituted herein against the 1st defendant Rural Urban Credit Finance Company (in liquidation) notwithstanding that an interim liquidation and official receiver has been appointed, and that the official receiver and interim liquidator do defend the proceedings herein in the name and on behalf of the 1st defendant. The application is opposed by the respondent/defendant on the grounds that no leave was obtained by the Plaintiff prior to commencement of this suit in compliance with section 228 of the Companies Act Cap 486, which provides as follows:-

When a winding-up order has been made or an interim liquidator has been appointed under section 235, no action or proceedings shall be proceeded with or commenced against the company except by leave of the court and subject to such terms as the court may impose. These proceedings were commenced without leave of the court in contravention of the provisions of the Companies Act and therefore are invalid.

The order sought that the Plaintiff be at liberty to proceed with the proceedings instituted herein against and the suit is hereby struck out with costs to the respondent/defendant. Orders accordingly.

**Dated and delivered at Nairobi this 27th day of July, 2000**

**J.LA. OSIEMO**

**JUDGE**