

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL CASE NO.82 OF 2000

TREADSETTERS TYRES LIMITED PLAINTIFF
- versus -
HERCULES TRANSPORT COMPANY LIMITED..... DEFENDANT

J U D G E M E N T

This is application for summary judgement for payment of goods supplied and received by the Defendant. I have looked at the claim and the defence, but the principle needed to be observed here is that where the defence raises no reasonable defence or no triable issues then an order can be given in this kind of application for summary judgement. Where however, the defence raises some issues or the court feels that there may be a doubt and that the defence is shadowy, then leave can be granted on condition.

I have looked at the defence, it amounts to me a mere denial and although the Defendant reserves therein his right to apply to strike out the claim for paucity there was no application for particulars. I have heard both counsel in this matter and I feel the defence is shadowy. So I shall order that the Respondent be given leave to defend on condition that in 14 days he will have deposited the claimed amount in Court. Failure to do so the defence will be struck out and there will be judgement to the plaintiff as claimed in the plaint.

Cost of this application to the Plaintiff in any event.

Dated this 30th Day of August, 2000.

A.I. HAYANGA
JUDGE