



**High Court Of Kenya At Nairobi**

**Milimani Commercial Courts**

**Civil Case No. 246 Of 1999**

**United Finance Co Ltd**

**v**

**Matiko Agoye Akedi**

**RULING**

October 19, 2000 T Mbaluto, Judge delivered the following ruling. The plaintiff has brought this application for orders to strike out the defence and for judgment to be entered against the defendant as prayed in the plaint. The application is based on the following grounds:-

“(a) That the said Defence is frivolous, and vexatious and only intended to delay the fair trial of the action.

(b) The statement of defence is not an answer to the Plaintiff’s claim herein the same being evasive.

(c) That the Defendant has expressly or impliedly admitted the Plaintiff’s claim herein.”

The application is supported by an affidavit sworn on February 18, 2000 by B M Ibutiti, the General Manager of the plaintiff company. The application together with a letter indicating that the application would be coming for hearing on October 16, 2000 was sent by registered post to the defendant’s advocates who have however not made any response; neither for that matter did they attend court on the date fixed for hearing of the application.

Having perused the defence filed by the defendant as well as the application by the plaintiff as well as the annexures thereto and also having considered submissions made at the hearing of this application by learned counsel for the applicant, I agree with the plaintiff that the defence filed by the defendant is frivolous, vexatious and only intended to delay the fair trial of the suit. It is clearly a sham which raises no triable issues. For those reasons, it is struck out and judgment entered in favour of the plaintiff against the defendant as prayed in the plaint. The defendant will bear the plaintiff’s costs of this application.

Delivered on October 19, 2000

**T Mbaluto,**

**Judge**