

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL SUIT NO.605 OF 2000

NASSOR HADI FISH DEALERS PLAINTIFF

versus

MUNICIPAL COUNCIL OF MALINDI DEFENDANT

R U L I N G

Certificate of Urgency is still anamorphous jurisdiction. It does not have well defined rules of guidance although it is discretionary, but discretion must be gauged against certain principles. I believe the applicant must show that there is an urgency in the matter that calls for quick remedy to avert injustice. It must show that if it travels the normal procedural cause he will suffer injustice. The applicant should also be able to show that he has taken the earliest opportunity to make his application so that the indolent the negligent and the opportunist is not aided. Above all, the applicant should usually show that because of any of all of these reasons his case cannot be left to travel the normal tread of the mill.

In this case the applicant wants to apply for urgent hearing complaining of a matter that has already occurred. If the Notice objected to spelt doom, to the applicant, he should have made the application at the earliest opportunity. I am unable to exercise my discretion to grant certificate and the application is refused.

Dated this 11th Day of December, 2000.

A.I. HAYANGA

JUDGE