



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

MILIMANI COMMERCIAL & TAX DIVISION

HCCC NO. 547 OF 2006

EABS BANK LIMITEDPLAINTIFF

VERSUS

1. NIKUNJ S. PATEL1ST DEFENDANT

2. SUMAN H. PATEL 2ND DEFENDANT

3. NILESH S. PATEL3RD DEFENDANT

4. RAMESH C. MEHTA 4TH DEFENDANT

5. S. C. MEHTA 5TH DEFENDANT

RULING

1. On 6TH May 2019 Ms Mochama ,appearing for the Plaintiff, informed Court that her client’s witness had left employment and she sought leave to have a statement prepared by that witness substituted.
2. That witness was Pauline Olali who filed a written statement dated 27th August 2012 and presented to Court on 6th September 2012.
3. The Court granted the leave sought but on condition that the substituted witness statement would not change the substance or contents of the earlier statement.
4. Since then the Plaintiff has filed two witness statements by Stephen Maweu Syovo both dated 13th August 2019. Attached to those statements are documents. Counsel for the Defendant objects to documents introduced by this statement and requests that they be expunged.
5. Other than seeking that the documents be accepted as duly filed, counsel for the Plaintiff does not explain why the documents were filed inspite of the clear order of 6th May 2019. No leave was granted for filing of new documents. Indeed no leave was sought for admission of the documents.
6. The Plaintiff has attempted to abuse the latitude of the leave granted on 6th May 2019 and will not be permitted to do so. All further documents attached to the bundle dated 13th August 2019 are hereby expunged from the record.

Dated, Signed and Delivered in Court at Nairobi this 6th Day of November 2019.

F. TUIYOTT

JUDGE

PRESENT;

Mochama for Plaintiff

No appearance for Defendant

Court Assistant: Nixon

Later:

Gichaba for 4th and 5th Defendant