

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL CASE NO. 22 OF 2018

SPEDAG INTERFREIGHT KENYA LIMITED.....1ST PLAINTIFF

SPEDAG INTERFREIGHT TANZANIA LIMITED.....2ND PLAINTIFF

VERSUS

JYOTI STRUCTURES LIMITED.....1ST DEFENDANT

JYOTI STRUCTURES KENYA LIMITED.....2ND DEFENDANT

R U L I N G

NO. 2

1. There being no objection to the application for leave to appeal and this court proceeding from the standpoint that no party should be shielded from seeking to challenge the decisions of this court on its original jurisdiction, I do grant leave to appeal with an order that the proceedings be typed certified and availed to the parties upon payment of requisite court fees.

2. On the status of the submissions filed by the defendants today and served in court, I am not in doubt that the same were filed out of time without any plausible reasons. That the client wanted and took the documents filed did not stop counsel from making copies for her file and giving a set to the client. That was the provident and reasonable thing to do. Once given one cannot escape the view that the late filing was purely designated to derail the hearing today. Infact one get the impression that the defendant were persuaded that if the court cannot grant an adjournment they would force one upon the court.

3. I agree and believed that any mistake by counsel or a litigant should not be the only reason to deny them a chance to put their case before court. I also appreciate that even if I strike out the submissions, the defendant will have their copy and nothing will stop them from reading those submissions to court. Striking out will serve no meaning purpose. Let the submissions be heard regard of during the hearing if the plaintiff is still purposed to proceeded.

Dated, signed and delivered this 12th day of October 2018.

P J O OTIENO

JUDGE