

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

HIGH COURT CIVIL MISC. APPLI. NO. 197 OF 2005

RUSTAM HIRA ADVOCATE..... APPLICANT

- V E R S U S -

ORIENT BANK FORMERLY DELPHIS BANK.....CLIENT/RESPONDENT

RULING

1. This ruling is the outcome of two oral applications in which the parties have sought for orders to issue summoning the deponents of two different affidavits. Mr. Were learned advocate for the respondent has beseeched this court to issue an order to summon Wilfred Kenneth Machini to take the witness stand to be cross-examined on the contents of his further affidavit sworn on 5.4.2015. Mr. Kihara on the other hand has urged this court to also summon Mr. Rustam Hira to be cross-examined on the contents of the affidavit he swore on 24th March 2016. This court directed learned counsels to provide written grounds and or reasons to support their requests before close of business on 8.4.2016. None of them met the dateline in filing the aforesaid reasons. The only party who attempted to do so, was the firm of Gichuki King'ara & Co. Advocates for the applicant. However, the written submissions were filed out of time and without prior leave of court. This court had indicated that tie was of essence hence the strict timelines provided.
2. For the above reason I will not consider the reasons supplied late but have the same expunged from record.
3. At the close of business as of 8.4.2016, both sides had not supplied to this court the grounds and or reasons to enable it exercise its discretion in their favour. Consequently I decline to issue any order summoning Messrs Rustam Hira and Wilfred Kenneth Machini for cross-examination.

Dated, Signed and Delivered in open court this 13th day of April, 2016

J. K. SERGON

JUDGE

In the presence of:

..... for the Applicant

..... for the Respondent