



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 435 of 2008**

**MARIA RIMANTO KAPTEEN..... PLAINTIF**

**VERSUS**

**KENYA WINE AGENCIES..... 1<sup>ST</sup> DEFENDANT**

**AYTON YOUNG & RUBICAM  
LIMITE.....2<sup>ND</sup> DEFENDANT**

**RULING**

By way of an application by Chamber Summons brought under the provisions of order VI rule 13(1) (a) of the Civil Procedure Rules, the 2<sup>nd</sup> defendant applied for the suit filed by the plaintiff be struck out with costs. The grounds in support of the application are that the plaint discloses no reasonable cause of action. From the pleadings filed, it is evident that the 2<sup>nd</sup> defendant was at all material times acting as a disclosed agent of the 1<sup>st</sup> defendant. The plaintiff was also aware that she was dealing with the 2<sup>nd</sup> defendant as an agent of the 1<sup>st</sup> defendant. The 1<sup>st</sup> defendant in its defence admits entering into contract the subject matter of this suit with the plaintiff by taking responsibility in the name of principal.

The application is not opposed. Going by the material on record, it is evident that in this matter the 2<sup>nd</sup> defendant's role as an agent of the 1<sup>st</sup> defendant was well known to the plaintiff. The law in regard to a disclosed agent is well settled in various decisions of the High Court and Court of Appeal especially the case of *Wareham t/a A.F. Wareham & 2 Others vs. Kenya Post Office Savings Bank [2004] 2 KLR page 98*.

Accordingly considering the matters pleaded, that no cause of action disclosed against the 2<sup>nd</sup> defendant. This suit is hereby struck out as against the 2<sup>nd</sup> defendant with costs.

RULING READ AND SIGNED AT NAIROBI THIS 6<sup>TH</sup> DAY OF JULY 2009.

**M.K. KOOME**

**JUDGE**