



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**

**CIVIL CASE NO 1600 OF 1982**

**CITY DECORATORS LIMITED .....APPELLANT**

**VERSUS**

**RAVJI MEGHJI PATEL & OTHERS.....DEFENDANT**

**JUDGMENT**

**Cases**

No cases referred to.

**Statutes**

Civil Procedure Act (cap 21) sections 90 and 100

June 19, 1987, Rauf J delivered the following Judgment.

In this case a consent judgment was entered on May 19, 1986 for Kshs 136,432 with costs and interest thereon; and the amount of Kshs 68,798/ 30 deposited in the court by the defendants was ordered to be paid out to the plaintiff.

Subsequently, on March 17, 1987, the defendants filed this Chamber Summons to vary or set aside the aforesaid consent judgment on the ground that Mr Kwach who had the conduct of the defence case exceeded his authority in agreeing to the amount owed by Kshs 19,567/80.

When this summons came up for hearing before me on June 17, 1987 the learned counsel for both parties rested their respective cases on them within submissions exs 1 and 2.

Mr Fraser for the applicants argued that the consent order, being in excess of the authority of the advocate appearing for them at that time, can be cured under sections 90 and 100 of the Civil Procedure Act (cap 21). He quoted several authorities to support his contention.

Mr C S Joshi in his written brief submitted that consent judgment being part of the decree under judicial pronouncement does not fall within — ‘slip rule’ nor is it covered by any provisions of the law. He cited numerous cases to strengthen his arguments.

I commend both learned counsel for their very lucid and exhaustive written submissions on all the aspects of this application. Their briefs covered not only the immediate issue before me but all the ancillary law relating to that issue.

Having carefully studied the authorities, I have no doubt about the law on the issue in this application which is overwhelmingly against the applicants. Consequently, I dismiss the application with costs.

**June 19, 1987**

**RAUF**

**JUDGE**