



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

**CIVIL CASE NO 673 OF 1982**

**NAKULINES LTD.....PLAINTIFF**

**AND**

**TARA SINGH DOGRA CIVIL ENGINEERING CONTRACTORS .....DEFENDANT**

**13/7/84**

**CORAM: ALUOCH, J**

**Mr Omwela for the plaintiff/applicant**

**Mr Sharma for Mr Rustan Hira for defendant/respondent**

**Int. – Moraya**

**RULING**

The plaintiff/applicant moved the court by way of Notice of Motion under Order XXXV for Orders:

- (1) That judgment be entered for the plaintiff as prayed in the plaint.
- (2) That the defendant do pay to the plaintiff costs of this application.

The application was supported by the affidavit of Hywel Glyn Isaac, the Receiver Manager of the plaintiff company, and further reasons were adduced at the hearing. Also a bundle of documents was produced to support the application's claim. The application was opposed by Mr Sharma, appearing for Mr Bustam Hira, on behalf of the defendant/respondent. The reasons are on record.

I have considered this application along side the bundle of documents produced in court a total of seventy (70) in all. According to the plaintiff/applicant, the documents, show how the sum claimed in the plaint was arrived at, but documents were not signed by them, as such proof will be required as to whether they owe the money mentioned thereunder or not. Because of the nature of arguments presented to me by the two learned lawyers during the hearing of the application I have come to the conclusion that there are triable issues in this case, which can only be determined at the hearing of the suit, as such, I am unable to enter summary judgment as was requested, but I proceed to dismiss the application with costs.

**Dated at Nairobi this 13th Day of July 1984**

**J ALUOCH**

**JUDGE**