

REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT NAKURU
Civil Appeal 70 of 1995

CHINA JIANGSU INTERNATIONAL ECONOMIC CO-OP CORPORATION
APPELLANT

AND

EDWARD K. O. MAINA T/A MATRA INTERNATIONAL ASSOCIATES
RESPONDENT

(Appeal from a ruling of the High Court of Kenya at Nakuru (Nambuye J) dated 8th

November, 1993

in

NKR. H.C.C.S. NO. 125 OF 1993)

R U L I N G

This is a really useless reference which only increases costs of litigation unnecessarily. The fact that the respondent's defence was struck out and is no longer on record cannot be a basis for debaring the respondent from being heard on taxation. The applicant himself served them with notice of taxation but even if he had not served them, the Deputy Registrar would have been bound to direct that they be served. The fact that the defence was struck out does not mean that everything in the litigation must be done without the defendant being heard.

Mr Arika says he is an advocate employed in the firm of M/s Ochieng Oduol & Co Advocates. The applicant does not say that is not correct. I think the Deputy Registrar was perfectly right in rejecting the wholly unnecessary and uncalled for preliminary objections of the applicant. This reference from the Deputy Registrar fails and I reject it with costs thereof to the respondent.

Dated and delivered at Nairobi this 9th day of May, 2001.

R. S. C. OMOLO

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR