



REPUBLIC OF KENYA

COURT OF APPEAL AT NAIROBI

CIVIL CASE 1165 OF 2003

JOHN BOSCO NGETA MAUNDU.....PLAINTIFF

Versus

WILLIAM WAMBUA KIWIA.....1ST DEFENDANT

CHARLES MUTUKU.....2ND DEFENDANT

BAUMANN'S LTD.....3RD DEFENDANT

THE HON ATTORNEY GENERAL.....4TH DEFENDANT

RULING

Mr. Mwangi and Mr. Kitulu, learned Counsel conducting the Applicants and the Respondents cases respectively in the Chamber Summons before me dated 29th July 2009 recorded a consent that I do decide the said Chamber

Summons on the basis of their relevant filed affidavits.

From what Mr. Mwangi told me, what remains to be decided in the chamber Summons is prayer number 3 and

prayer number 5. Prayer number 3 states

“THAT the orders dismissing the 2nd Defendant’s application dated the 10th of December 2008 be set aside and the application reinstated for hearing.”

Prayer number 5 is for costs.

I have had the opportunity to read the said affidavits in the light of what is stated in the Chamber Summons and grounds thereon and bearing in mind the powers of this Court in terms of Section 3 A of the Civil Procedure Act, I am inclined to give further opportunity to the Applicant in the Chamber Summons dated 10th December 2008 hoping he has learned a lesson from the past so that from now on delaying tactics including the conduct of ignoring court orders on his part or his Counsel will be avoided, to lead to finalization of this suit without further delay.

Accordingly, the Chamber Summons is hereby granted in terms of prayer number 3 and the Applicant/2nd Defendant to pay costs of the Chamber Summons to the Respondent/Plaintiff.

Counsel for the 2nd Defendant and Counsel for the Plaintiff jointly or any of them separately to take hearing date for the Chamber Summons dated 10th December 2008 at the Registry on priority basis.

The said hearing be before any other judge in the Civil Division of this court.

Dated this 9th day of October 2009.

J.M. KHAMONI

JUDGE



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