



**Double Four Services Limited v East African Building Society (Civil Suit
81 of 2018) [2022] KEHC 10745 (KLR) (19 May 2022) (Directions)**

Neutral citation: [2022] KEHC 10745 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CIVIL SUIT 81 OF 2018**

**OA SEWE, J
MAY 19, 2022**

BETWEEN

DOUBLE FOUR SERVICES LIMITED PLAINTIFF

AND

EAST AFRICAN BUILDING SOCIETY DEFENDANT

DIRECTIONS

- [1] The plaintiff moved the court vide the application dated June 15, 2021 for orders that:
- [a] Spent
 - [b] The court be pleased to review or vary the orders/directions given on December 13, 2018 and July 17, 2019 to the effect that the hearing of the suit to start de novo.
 - [c] That upon granted Prayer [b] above, the court be pleased to adopt as the evidence of Wilfred Abincha Onono, PW2 as follows:
 - [i] The Witness Statement dated October 22, 2012 and filed in court on October 29, 2014;
 - [ii] PW2's evidence and the exhibits adduced in court on November 14, 2017.
 - [d] That pursuant to granting of prayer [c] above, the plaintiff's case be deemed as closed and the matter be set down for the hearing of the defence case.
 - [e] That the costs of the application be in the cause.
- [2] The application was premised on the grounds that due to Covid-19 pandemic the plaintiff's business was adversely affected; and as such he was unable to cater for the attendance expenses, air ticket and accommodation for Mr. Wilfred Abincha Onono, PW2, who is ordinarily based in Nairobi. It was further averred that Mr. Onono had testified and produced the relevant documents in support of his



evidence, on the basis of which he was duly cross-examined by counsel for the defendant on November 14, 2012; and that it would serve the ends of justice for the Court to adopt the witness statement and the evidence already on record.

[3] Circumstances have since changed, in that the Covid-19 situation is now under control. Secondly, after the application was reserved for ruling, I was transferred from Eldoret High Court to Mombasa High Court; such that I will not be in a position to hear this case to conclusion. In is in the light of the foregoing that I hereby direct that the subject application be placed before a Judge of the High Court at Eldoret for determination, taking into account that the proceedings will have to henceforth proceed before my successor in accordance with order 18 rule 8 of the *Civil Procedure Rules*.

[4] In the premises, it is hereby ordered that this file be returned to Eldoret High Court for further directions for purposes of order 18 rule 8 of the *Civil Procedure Rules*; not only in respect of the application dated June 15, 2021, but also the main suit.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT MOMBASA THIS 19TH DAY OF MAY 2022.

OLGA SEWE
JUDGE

