



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**MILIMANI COMMERCIAL & TAX DIVISION**

**INSOLVENCY PETITION NO. E 174 OF 2019**

**IN THE MATTER OF THE COMPANIES ACT NO. 18 OF 2015**

**AND**

**IN THE MATTER OF THE COMPANIES ACT NO. 17 OF 2015**

**AND**

**IN THE MATTER OF KINGS PRIDE PROPERTIES LIMITED**

**LIQUIDATION PETITION**

(pursuant to Section 425 of the Insolvency Act No. 18 of 2015)

**RULING**

The Applicant/Respondent herein(**KINGS PRIDE PROPERTIES LIMITED**) raised a Preliminary Objection dated 26<sup>th</sup> May 2020, to the Petition and the entire Proceedings herein and urged the Court to determine the objection *in limine* and strike out the Petition and entire Proceedings with costs to the Respondent on grounds that;

a. It offends the provisions of **Order 1 Rule 10(2) of the Civil Procedure Rules, 2010** as the Applicant/Respondent herein has been wrongly sued by the Petitioners' as there was no existing contract between the Petitioners and the Respondent. Nor was the Respondent in charge of "the Development" that is alleged in the current Petition.

b. That it further offends the provisions of **Order 2 Rule 15 of the Civil Procedure Rules, 2010** as the current Petition does not disclose a reasonable cause of action as against the Applicant/Respondent herein for the reasons stated in (a) above.

No response by the Respondent was filed.

They indicated negotiations ongoing but did not respond to the Preliminary Objection.

The Preliminary Objection is unchallenged and therefore is upheld.

**DELIVERED SIGNED& DATED IN OPEN COURT ON 19<sup>TH</sup> MARCH 2021 (VIRTUAL CONFERENCE)**

**M.W. MUIGAI**

**JUDGE**

**IN THE PRESENCE OF;**

**MR. KULOBA FOR THE APPLICANT H/B MR. KURIA FOR THE PETITIONER.**

**COURT ASSISTANT: TUPET**