



**REPUBLIC OF KENYA**

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

**CIVIL CASE NO 3 OF 2019**

**MOSOUND EVENTS LTD.....APPLICANT**

**VERSUS**

**COUNTY GOVERNMENT OF NAROK...RESPONDENT**

**RULING**

1. Pursuant to the provisions of Order 13 Rule 2 and Order 51 Rule 1 of the Civil Procedure Rules, section 1A,1B and 3A of the Civil Procedure Act (Cap 21) Laws of Kenya the plaintiff seeks the following orders from this court.

1. An order that judgement in this suit be entered for the plaintiff against the defendant as pleaded in the plaint and on the voluntary admission of indebtedness to the plaintiff.

2. An order that the costs of the suit and the instant application be awarded to the plaintiff.

2. The application is supported by seven grounds that are set out on the face of the notice of motion. It is also supported by an eleven grounds supporting affidavit deponed to by its finance director (Mr. Charles Chege).

3. The major grounds in support of the application are as follows. The plaintiff claims from the defendant a liquated sum of Shs nineteen million, nine hundred thousand (Kshs 19,900,000), being sums of money accruing from a fulfilment of a tender number NCG/101/2015-2016 in the defendant's favour. Following the foregoing claim a consent agreement dated 26<sup>th</sup> November 2018 was entered into, in which the defendant admitted owing the plaintiff a sum of Kshs 19,900,000. In that agreement it was also agreed that the defendant was to liquidate the debt by monthly instalments of Shs four million (Shs 4,000,000) as from 5<sup>th</sup> December 2018 until payment in full. A copy of the consent agreement is annexed and marked "CC 2". That despite the defendant's admission of indebtedness to the plaintiff, the defendant has neglected, refused, and/or declined to settle its obligation to the plaintiff.

4. Finally, following advice from their advocates, the plaintiff believes that going for trial in the light of the clear and unequivocal admission by the defendant would only serve to escalate costs, waste judicial time, and delay justice.

5. The defendant has not entered any defence to the claim. Additionally, the defendant has also not filed any response to the application for summary judgement. When the matter came up for hearing on 6<sup>th</sup> June 2019, Mr. Kamwaro who held Mr. Kemboy's brief applied for an adjournment in order to seek instructions with a view to settle the matter out of court. Mr. Elkington opposed the application on the basis that the matter had been adjourned several times.

6. I have considered the foregoing matters and I find that the admission of liability by the defendant is unequivocal. In the circumstances, I hereby enter judgment for the plaintiff in terms of prayers 1 and 2 of the notice of motion dated 22<sup>nd</sup> February 2019.

**Ruling signed, dated and delivered at Narok this 27<sup>th</sup> day of June 2019** in the presence of Mr. Yenko holding brief for Mr. Elkington and Mr. ombati holding brief for Mr. Kemboy.

**J. M. Bwonwonga**

**Judge**

**27/6/2019**