

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

CIVIL SUIT NO. 3 OF 2016

PEHO AGENCIES LTD.....PLAINTIFF

VERSUS

COUNTY GOVERNMENT OF BUSIA. DEFENDANT

RULING

The applicant's application is brought by way of notice of motion dated 26th January 2017 under Order 36 Rules 1(a), 2 and 3, Order 51 Rule 1 of the Civil Procedure Rules and all enabling provisions of the law. The applicant is seeking orders as follows:-

1. That judgment be entered for the plaintiff against the defendant in terms of the prayers in the plaint.
2. That the costs be provided for.

The application was opposed on grounds that it is an abuse of the process of the law.

I have perused the affidavits for the application and that by the respondent. I do agree that this is not a dispute that can be determined by way of affidavits. Parties need to call evidence in support of their respective positions.

The application must fail with costs.

A suit is required to be filed in the lowest court with jurisdiction. The claim herein is less than six million Kenya shillings. The Chief Magistrate's court has a pecuniary jurisdiction of up to 20 million Kenya shillings. Am therefore making an order for this matter to be transferred to Busia Chief Magistrate's Court for hearing and determination.

DELIVERED and SIGNED at BUSIA this 18th day of October, 2017

KIARIE WAWERU KIARIE

JUDGE