

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 405 OF 2008

GRAHAM VETCH.....PLAINTIFF

VERSUS

1. CALVIN BURGESS

2. DOMINION FARMS LTD.....DEFENDANT

RULING

1. The notice of motion dated 12th September, 2014 seeks to have the plaint herein struck out. The application is premised on the grounds on the face of the application and the supporting affidavit of the 1st Defendant. He stated that despite the orders of 28th April, 2014, the Plaintiff has failed to deposit the decretal amount of KShs. 500,000/= as ordered.

2. The Plaintiff has not opposed the application.

3. The Defendants herein filed an application on 26th November, 2012 seeking orders that the Plaintiff does provide security for costs by depositing KShs. 500,000/= in a joint interest earning account in the names of the advocates for the parties and that in default, the plaint be struck out. This court Ougo J., on 28th April, 2014 allowed the said application and granted the orders on the terms that the sum of KShs. 500,000/= be deposited within thirty (30) days from the date of the order, that the parties do comply with Order 11 of the Civil Procedure Rules and the Plaintiff does take steps to prosecute the suit to avoid it being struck out.

4. The Plaintiff has not complied with the orders of court as directed. I have taken the liberty to peruse this file and it is clear that the Plaintiff is rather reluctant in prosecuting this matter. Holding the Defendants in abeyance in this matter further shall be unjust. In the circumstances I allow the application herein by striking out the plaint. The Defendants shall have costs.

Dated, Signed and Delivered in open court this 24th day of April, 2015.

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiff

..... for the Defendants