

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & ADMIRALTY DIVISION

CIVIL CASE NO. 518 OF 2014

IMPRESSA COSTRUZIONI

GIUSEPPE MALTAURO SPA.....PLAINTIFF

VERSUS

GA INSURANCE LIMITED.....DEFENDANT

R U L I N G

1. There are two **Notice of Motion** applications before the court. The **first application** is dated **21st January 2015** filed by the Defendant and is seeking the striking out of the Plaintiff and dismissal of the suit. The **second application** is dated **9th March 2015** filed by the Plaintiff seeking the striking out of the Defence and entry of Judgment as prayed in the Plaintiff. I will not write a long Ruling on the matter, suffice to say that I have considered both applications and the supporting affidavits. I have also considered the use of judicial time and objections under Section 1A, 1B and 3A of the Civil Procedure Act, and I am of the view that the parties should, instead of pursuing those applications, complete pre-trial directions, set out the matter for hearing and lead full evidence during the trial. Parties had filed written submission to the two applications. Perhaps if the parties had made oral submissions before the court, I would have noted the need for the suit to go for full trial in time.

2. It is now legally sound principle that a court will not strike out pleadings unless the need to do so is self evident and does not require additional evidence. Having looked at the two applications before the court, I am of the view that a prudent use of judicial time would be that which allows the parties to complete pre-trial directions and list the matter for full hearing.

3. In the upshot, both applications are not considered on merit, and the parties are advised to withdraw the same and set up the matter for trial.

Orders accordingly.

READ, DELIVERED AND DATED AT NAIROBI THIS 12TH DAY OF NOVEMBER 2015

E. K. O. OGOLA

JUDGE

PRESENT:

Mr. Muchiri for the Plaintiff

No appearance for the Defendants

Teresia – Court Clerk