

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL &ADMIRALTY DIVISION

CIVIL CASE NO. 772 OF 2010

VOLEX CONTRACTORS LIMITED :::::::::::::::::::: PLAINTIFF

-VERSUS-

**NATIONAL WATER CONSERVATION & PIPELINE CORPORATION
:::::::::::::::::: RESPONDENT**

R U L I N G

1. This Ruling is in relation to a **Notice to Show Cause** dated **19th May 2014** seeking to dismiss the suit for want of prosecution under Order 17 Rule 2 of the Civil Procedure Rules 2010.
2. Both the Plaintiff and the Defendant have filed affidavits in court on 9th July 2014 and 11th July 2014 respectively. Both parties oppose the Notice to Show Cause and want the suit to proceed to its logical conclusion on its merits.
3. I have noted that as late as 28th May 2014 there was an activity on file when the firm of S. Musalia Mwenesi Advocates invited the Defendant's advocates on 5th June 2014 to fix a pre-trial hearing for the matter. However, that could not happen since by that date this matter was already listed for dismissal.
4. In consideration of above factors I now set aside the said Notice to Show Cause and order that this matter shall proceed to full hearing. I direct the parties to comply with order 11 and pre-trial directions within 60 days from today. The matter will be mentioned to confirm compliance on 29th September 2014.

Orders accordingly.

DATED, READ AND DELIVERED AT NAIROBI

THIS 31ST DAY OF JULY 2014

E. K. O. OGOLA

JUDGE

PRESENT:

Onindo for Plaintiff

No appearance for Respondent

Teresia – Court Clerk