

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CIVIL SUIT NO.4 OF 2002

LUKAS OTIENO ODETE PLAINTIFF/RESPONDENT

VERSUS

KIPKEBE LIMITED DEFENDANT/APPLIANT

RULING:

The Applicant/Defendant applies to court to order that the suit has been compromised and the sum of shs.749,080/= paid to plaintiff's lawyers have fully settled the suit.

It was submitted that the plaintiff had three suits against the defendant. Judgments were entered in his favour all totaling to shs.899,080/=.

There after there were discussions between Ms Muthiga for the applicant and Mr. Mudeyi of M/s Khan & Katiku advocates for the respondent and it was agreed that the three suits be compromised by the defendant paying shs.749,080/=. This money was duly paid. However later counsel for the respondent wrote demanding the balance of shs.150,000/=. Ms Muthiga submitted that she had written to her client explaining the agreement and that is why he paid.

Mr. Mudeyi said there was no such agreement and they had no instructions to compromise the suit. He said there was no written agreement.

Indeed there was no written agreement. However it was clear that there was a meeting between Mr. Mudeyi and Ms Muthiga where they discussed the payment. Ms Muthiga wrote to her client on 17th December 2002. Informing them about the discussion and the agreement.

She could not have written that letter annexure 'RKM1' – if there was no such discussion and agreement. I am satisfied that the two counsels compromised the suits. Both lawyers were representing their clients who are bound by the agreement.

In the circumstances the application is allowed as prayed.

KABURU BAUNI

JUDGE

26/7/04

Delivered on 26/7/04.

Mr. Ogari holding brief for Ms Muthiga for respondent.

KABURU BAUNI

JUDGE

