



**Rupal Colorchem Industries v Innospsec Limited (Civil Case
E007 of 2024) [2024] KEHC 4552 (KLR) (16 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4552 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CIVIL CASE E007 OF 2024
DKN MAGARE, J
APRIL 16, 2024**

BETWEEN

RUPAL COLORCHEM INDUSTRIES PLAINTIFF

AND

INNOSPSEC LIMITED DEFENDANT

RULING

1. The Applicant sought the following prayers: -
 - a. That this application be certified urgent and service thereof be dispensed within the first instance.
 - b. That this Honourable Court be pleased to review its judgment issued on 26th February, 2024 by issuing a further Order declaring the consignment the subject of the Bill of Lading No. NAV/MBA/06518 as having been abandoned by the plaintiff.
 - c. That this Honourable Court be pleased to review its judgment issued on 26th February 2024 by issuing a further order directing that the container (s) holding the consignment the subject of Bill of lading No. NAV/ MBA / 06518 be striped of the aid cargo and thereafter, the said containers be released to the Shipping Line- Emirates Shipping Agencies (India) PVT.
 - d. That this Honourable Court be pleased to issue any such and/or further orders that it may deem fit/necessary to achieve the ends of justice.
 - e. The costs of this application be provided for.
2. The grounds are that the cost of repatriation are higher than they initially estimated. The contents were chemical imported into this country was 6000kgs of Synthic Organic Coluring mater, 6000kgs of 4R 85% valued at USD 67,200/= There is no attached any Environmental Impact Report of striping the consignment and releasing the matter in Kenya. Though the Application is not opposed here are



no grounds to allow the Application. The appellant should repatriate of transship the cargo. They cannot leave chemical waste in the country without regard to the potential pollution. The amount of cargo itself is enough to cause unknown chemical effects. In the absence of an order or disposal which must be supervised by KRA and NEMA, with the polluter paying the court has no reason to grant the orders sought.

3. The consequence of the foregoing is that the application dated 20/3/2024 lacks merit and is accordingly dismissed. There shall be no order as to costs.

Determination

4. The upshot of the foregoing is that I make the following orders: -
 - a. The Application dated 20/3/2024 lacks merit and is accordingly dismissed with no order as to costs.
 - b. The suit is closed.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 16TH DAY OF APRIL, 2024.
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

KIZITO MAGARE

JUDGE

In the presence of:-

Mr. Ndambuki for the Plaintiff

No appearance for the Defendant

Court Assistant- Michael/Brian

