



**Ima Trading Co. Ltd v Tamuwa Limited (Civil Case
E004 of 2023) [2024] KEHC 5121 (KLR) (9 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5121 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL CASE E004 OF 2023
RE ABURILI, J
MAY 9, 2024**

BETWEEN

IMA TRADING CO. LTD PLAINTIFF

AND

TAMUWA LIMITED DEFENDANT

RULING

1. As the contract between the parties provides for arbitration, there is no reason why this matter was filed in court then the parties start talking of an arbitration.
2. This court does not supervise initiation of arbitration proceedings where the contract between the parties provide for that alternative mode of resolution of the dispute.
3. As there is no interim measures sought in this file pursuant to Section 10 of the Arbitration Act, it was superfluous for the parties to consent to arbitration process through these court proceedings as the Agreement between the parties clearly provides for arbitration.
4. As the Plaintiff's advocate concedes that there was no need of filing this suit and refer the matter for arbitration which is a separate legal process, and is willing to have the suit withdrawn, I hereby allow the oral application and order that this suit is wholly marked as withdrawn.
5. As parties had agreed to have the consent recorded referring the dispute to arbitration, which consent was necessary, I order that each party bear their own costs of the suit as withdrawn.
6. This Ruling to be typed.
7. File closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 9TH DAY OF MAY, 2024

R. E. ABURILI



JUDGE

