

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL SUIT NO. 91 OF 2016

FRANCIS NDEGWA MUHORO.....PLAINTIFF

VERSUS

AHMEDNASIR M. ABDULLAHI ...DEFENDANT

RULING

This is an application by way of Notice of Motion dated 14th November, 2019 for orders that the court defers delivery of its ruling relating to an application which was heard in the absence of counsel for the plaintiff. In that application dated 11th July, 2019 the defendant sought an order that the plaintiff's plaint dated 24th March, 2016 be struck out.

On the date that application was listed for hearing, counsel for the plaintiff did not appear and therefore the court proceeded to hear counsel for the defendant. The present application is opposed by the defendant and a replying affidavit sworn on 2nd December, 2019 to that effect is on record. There is also a supplementary affidavit sworn by the counsel for the plaintiff on 6th December, 2019. Both parties have filed submissions to address this application. I do not deem it necessary to delve any deeper into the said submissions because I am persuaded in the interest of justice, the plaintiff should be heard in relation to the application to strike out the plaint before the pending ruling is delivered.

Accordingly, the application is allowed and both counsel shall take a convenient date suitable to both parties so that the plaintiff may be heard as prayed.

It is however only fair that the plaintiff pays the defendant costs occasioned by the non-attendance which led to the court to proceed in the absence of counsel.

Orders accordingly.

Dated, signed and delivered at Nairobi this 7th Day of May, 2020.

A. MBOGHOLI MSAGHA

JUDGE