



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL AND ADMIRALTY DIVISION**

**CIVIL SUIT NO. 557 OF 2014**

**ELECAGE HOLDINGS LIMITED.....PLAINTIFF**

**- VERSUS -**

**COMARCO CONSTRUCTION COMPANY LIMITED.....DEFENDANT**

**RULING**

1. The application dated 5<sup>th</sup> November 2015 is for summary judgement.
2. The claim lodged by the plaintiff was for Kshs. 36,100,000/- together with interest from the date when the plaint was filed in court.
3. The plaintiff also claimed the costs of the suit, plus interest on the said costs.
4. Having been served with the Plaint, the defendant entered appearance through the Law Firm of Mathew Nyabena & Company Advocates.
5. However, the defendant did not file any defence to the claim.
6. The plaintiff has disclosed that the defendant had already paid a total of Kshs. 13,000,000/- to the plaintiff. Following the remittance of that sum, the balance still due and owing from the defendant was Kshs. 24,100,000/-.
7. The plaintiff has provided the court with documentary proof that the defendant had made an offer to settle the balance through monthly installments.
8. The court records also show that on 26<sup>th</sup> January 2016, Miss Weya advocate held brief for Mr. Nyabena, the learned advocate for the defendant. Through its advocate, the defendant made it clear to the court that it had made further payments.
9. In effect, the defendant has confirmed, by letter and also by conduct, that it did not have any defence to the claims.
10. Accordingly, I find that, as at 5<sup>th</sup> November 2015, the defendant owed Kshs. 24,100,000/-, to the plaintiff. Therefore, I now enter judgement in favour of the plaintiff, for the sum of Kshs. 24,100,000/-.

11. The said sum will attract interest at 14% per annum from 28<sup>th</sup> November 2014, when the suit was filed in court.

12. The defendant is also ordered to pay to the plaintiff, the costs of the suit and the costs of the application dated 5<sup>th</sup> November 2015.

13. The costs will attract interest at 9% per annum from the date when the quantum is ascertained whether by consensus or by taxation.

**DATED, SIGNED and DELIVERED at NAIROBI this 6<sup>th</sup> day of April 2016.**

**FRED A. OCHIENG**

**JUDGE**

**Ruling read in open court in the presence of:**

*Miss Wambani for the Plaintiff*

*No appearance for the Defendant*

*Collins Odhiambo – Court clerk.*