



REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

CIVIL SUIT NO. 167 OF 2011

ABDUL OMAR MOHAMED.....PLAINTIFF

VERSUS

FIORE DI WARIDI ENTERPRISESDEFENDANT

RULING

1. The Plaintiff's Notice of Motion filed on 15th June, 2012 seeks orders that:

“a) THAT this honourable Court be pleased to refer the dispute herein to arbitration and/or mediation and/or any other means of dispute resolution it may deem appropriate.

b) THAT this honourable Court be further pleased to set a time limit within which the dispute is to be resolved and award made.”

2. The Notice of Motion is based on the Plaintiff's affidavit. The Defendant opposed the application. By consent parties filed written submissions. Having carefully considered these submissions in light of the pleadings herein and in particular, the nature of the contracts which are the subject matter herein, I am satisfied that this is a proper matter for referral to mediation.

3. In terms of Order 46 rule 20 of the Civil procedure Rules I direct that the parties herein do jointly appoint a suitably qualified mediator, preferably an architect or quantity surveyor for purposes of mediation. Such appointment will be done within thirty (30) days of today's date. The mediator is to commence mediation immediately upon his appointment and file his award/report into the court within three (3) months of his appointment.

4. Costs will be in the cause.

5. The delay in delivering this ruling was occasioned by election petitions' calendar and is regretted.

Delivered and signed at Malindi this **4th** day of **November, 2013** in the presence of Mr. Obaga holding brief for Mr. Mwadilo for the Plaintiff.

Court clerk - Samwel

C. W. Meoli

JUDGE

