

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. E097 OF 2025

NEXT **TECHNOLOGIES**
LIMITED.....PLAINTIFF
=VERSUS=
AFRICA CENTER FOR ADVANCED TECHNOLOGY.....
DEFENDANT

RULING

1. This suit was filed vide the Complaint dated 9th April 2025, which Complaint was very extensive and spanned 12 paragraphs. The cause of action was based on an alleged breach of two (2) contracts. One of a value of Ksh 230,062,723/73 dated 31st May 2022, and the other of Ksh 90,990,286/68 dated 14/6/2022.
2. The Plaintiff was accompanied with a verifying Affidavit as well as a list and bundle of documents containing seven documents, namely:
 - (i) Statements of financial position.
 - (ii) Board Resolution.
 - (iii) Copies of the two contracts.
 - (iv) 4 copies of letters of Award of Tender.
 - (v) Copies of Emails.
 - (vi) Notice of Institution of Suit.
 - (vii) Demand Letter
3. In response to the suit, the Defendant filed a Defence. Which although had 7 paragraphs, was rather brief and sketchy the same is dated 6th May 2025. Following that Defence, the Plaintiff filed an Application to strike it out. The Application,

which was brought under Order 2 Rule 15 of the Civil Procedure Rules, was on the ground that the Defence filed by the Defendant (the one dated 6th May 2025), is frivolous, embarrassing, vexatious, and an abuse of the court process. The Application was argued orally.

Analysis and Determination

4. Upon perusing the Application and its Supporting Affidavit, the parties' primary pleadings (especially the Plaint and the Defence) and the submissions at the hearing of the Application, I find that the said Defence is a sham evasive, equivocal, vague, a practical joke, and one that discloses no reasonable claim to this suit. It will therefore be a waste of judicial time and judicial resources. For this suit to proceed to trial, that will be a mockery of the judicial process. In the ***D.T Dobbie & Company Ltd v. Muchina (1982) KLR 1*** Madan, JA (as he then was) observed that the court's striking out power is a draconian one that should be exercised only in the most hopeless suits in which no life can be breathed and those that as such as cannot be salvaged even by an amendment of the pleading. I hold that this is one such case.
5. In the circumstances, I allow this Application, strike out the Defendant's purported Defence and enter Judgment for the Plaintiff as against the Defendant for the sum of Ksh 34,276,032/25. The Plaintiff is also hereby awarded interest on that sum at 14% per annum from the date the suit was filed, until payment in full. The Defendant shall also pay the costs of this suit.

DATED and DELIVERED at NAIROBI on this 30th day of September 2025.

PROF (DR) NIXON SIFUNA
JUDGE