

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MOMBASA
(COMMERCIAL AND ADMIRALTY DIVISION)
HCOMM NO. E059 OF 2025

LIAONING **PHARMACEUTICAL**
FTC.....PLAINTIFF

VERSUS

EDINBURG SERVICES UGANDA LTD1ST
DEFENDANT

CHURCH & DWIGH LTD2ND
DEFENDANT

MEDITERRANEAN SHIPPING COMPANY SA...1ST INTERESTED
PARTY

KENYA PORTS AUTHORITY2ND INTERESTED
PARTY

KENYA REVENUE AUTHORITY3RD INTERESTED
PARTY

JUDGMENT

1. The plaintiff is a Chinese company that operates in Kenya through a local agent, **Rockledge East Africa Ltd**, a limited liability company incorporated in Kenya.
2. The plaintiff avers in the plaint that was filed in this cause that on 28th July 2025, they received an email, purportedly from Church & Dwight Ltd, ordering goods for delivery to Edinburg Services Uganda Ltd through the port of Mombasa. The order was for 168 metric tonnes of paraffin wax, valued at US\$233,520. Being under the impression that

the order was bona fide, and pursuant to the purported agreement, the plaintiff consigned the paraffin wax in 2 shipments of 84 metric tonnes each. Mediterranean Shipping Company SA received the goods at the Port of Mombasa. The said port is a port of discharge of the goods to Uganda.

3. The goods were not delivered to Uganda, as the plaintiff became suspicious and sought clarification from Church & Dwight UK Limited and established that there were fraudsters who had posed as Church & Dwight UK Limited with a view to committing fraud.
4. The plaintiff thereafter filed an application dated 11th September 2025 seeking an order of injunction preventing the defendants from taking possession of the consignment, the subject of the bill of lading numbers **MEDUHW210361** and **MEDUHW194334**, pending the hearing of the application interpartes.
5. It is clear that the respondents were served. Service was evidenced by the affidavits of service, which were filed. Despite being served, none of the defendants and the interested parties, except the Kenya Revenue Authority, entered an appearance. When the matter came up for an interpartes hearing on 25th September 2025, the court allowed the application as the same was unopposed. The Kenya Revenue Authority took the position that it ought not to have been made a party, as no relief was sought against it. The court directed that the matter be mentioned on 7th October 2025 for purposes of directions.

6. The subject matters of the suit are goods lying in the Port of Mombasa. Since the same attracts demurrage charges, and will continue to do so until the suit is heard and determined, the court, at the request of the plaintiff's counsel, fixed the matter for hearing on a priority basis. The court fixed the matter for hearing on 16th October 2025.
7. The plaintiff's request to proceed with the hearing on the basis of documents only, one was denied. The matter was therefore heard on 16th October 2025.
8. The plaintiff called only one witness, Mr **Kelvin Maruti**. Mr Maruti is a shipping expert specializing in cargo services, loss investigation, and damage assessment. He testified that the plaintiff was deceived by the 1st defendant as a result of which goods worth **Kes.30,000,000/-** were shipped to a fictitious entity. It was his evidence that the real Church & Dwight Ltd was unaware of the contract. He prayed that the suit be allowed, as the goods are still in the port of Mombasa.
9. Despite being served, the defendants did not appear. The cause, therefore, proceeded as an undefended suit.
10. I have considered the plaint, the witness statements of Mr Kevin Maruti, the representative of Liaoning Pharmaceutical Foreign Trade Corporation, and the documents in the list and bundle of documents. the evidence of the plaintiff has not been controverted as

the suit is undefended. There is no doubt that the goods are in the Port of Mombasa. If the defendants were bona fide companies, they would have defended themselves as they stand to lose cargo. Their absence, despite being served, is a clear indication that they are fraudsters.

11. That being the case, I am satisfied that the plaintiff has proved its case.
12. I note at this juncture that the plaintiff amended its plaint. Prayers Nos (A) and (B) of the amended plaint are spent as they were the subject of the injunction, which this Court issued. What is pending are prayers (C) and (D).
13. As the plaintiff was, in all likelihood, a victim of fraud, it is my view that issuance of order C is fact and just. I therefore order that the plaintiff has the liberty to ship the goods back to the county of origin or to deal with them as it wishes.
14. Costs follow the event. I award the plaintiff the costs of the suits.
15. Orders accordingly.

Dated and signed in Mombasa, this 30th day of October 2025.

Delivered virtually through **Microsoft TEAMS.**

Gregory Mutai

JUDGE

In the presence of: -

Mr Muchiri, for the Plaintiff;

No appearance for the Defendants;

Mr Nyapara, for the Kenya Revenue Authority; and

Arthur – Court Assistant.

Original