



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT CHUKA

CHUKA ELC CASE NO 117 OF 2017

FORMRLY MERU ELC CASE NO. 44 OF 2009

JAMHURI DOUGLAS MAKINYA.....PLAINTIFF

VERSUS

DOUGLAS ARITHI MAKINYA.....DEFENDANT

RULING

1. This ruling concerns a Preliminary Objection dated 19th July, 2013, filed by the defendant.

2. It states:

TAKE NOTICE that prior to the hearing of this suit the defendant shall raise and argue a preliminary point of law on the ground that

1. The plaintiff's suit is fatally defective and bad in law as it contravenes the express provisions of section 3(3) of the Law of Contract Act Cap 23 Laws of Kenya.

REASONS WHEREOF the defendant prays that the plaintiff's suit be struck out with costs to the defendant and the defendant to be allowed to prosecute his counterclaim.

DATED THIS 19TH DAY OF JULY, 2013

BASILIO GITONGA, MURIITHI AND ASSOCIATES

ADVOCATES FOR THE DEFENDANT

3. Although the parties had filed written submissions, on 2nd October, 2017, advocate Muriithi for the defendant wrote to the court intimating unconditional withdrawal of the Preliminary Objection.

4. The Preliminary Objection is marked as withdrawn.

5. No costs are ordered

6. The plaintiff to fully comply with order 11, CPR within 14 days of today and the defendant to do so within 14 days after receipt of the plaintiff's compliance documents.

7. Mr. Muriithi, for the defendant to serve the orders issued today by the court upon the plaintiff's advocate within 10 days of today.

8. Directions on 8.11.2017

9. It is so ordered.

Delivered in open court at Chuka this **2nd day of October, 2017** in the presence of:

CA: Ndegwa

Muriithi for the defendant

P.M. NJORGE

JUDGE