



**Speedaf Logistics Kenya Limited v Pluto Mall Limited (Commercial Miscellaneous Application E004 of 2024) [2024] KEHC 2771 (KLR) (18 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2771 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
COMMERCIAL MISCELLANEOUS APPLICATION E004 OF 2024**

**RE ABURILI, J  
MARCH 18, 2024**

**BETWEEN**

**SPEEDAF LOGISTICS KENYA LIMITED ..... APPLICANT**

**AND**

**PLUTO MALL LIMITED ..... RESPONDENT**

**RULING**

1. By an application dated 4<sup>th</sup> March 2024, the Respondent’s advocates seek leave of court to cease acting for want of instructions from the Respondent/Client.
2. The application was served upon the Respondent as per the affidavit of service sworn on 15<sup>th</sup> March 2024 by Kiptoo Menjo Hillary Advocate.
3. There is no response to the application. The Advocate indicates that he fully notified the Respondent of today’s date not only on the application to cease acting but also on the application for stay of proceedings in Kisumu CMCC No. E015 of 2024 and for transfer of the said suit from this court to Nakuru High Court on account of not only territorial jurisdiction in that the cause of action arose in Nakuru, but also, that the Respondent intends to file a counterclaim in respect of loss and damages well in excess of Kshs.20,000,000 which the Magistrate’s court is devoid of pecuniary jurisdiction to hear and determine.
4. I have considered the application to cease acting for the Respondent and the grounds and affidavit in support thereof. I have also considered the application for transfer of the suit in the lower court at Kisumu CMCC No. E015 of 2024, the grounds in support and the affidavit and annexures.
5. I am satisfied that the Respondent’s counsel cannot be compelled to represent a client whose instructions are not forthcoming. I allow the application as prayed with no orders as to costs.



6. On the motion for transfer of the Kisumu CMCC No. E015 of 2024 to Nakuru High Court, I find that on the grounds and supporting affidavit, the cause of action arose in Nakuru and in addition, as the Respondent intends to file a counterclaim whose value is in excess of pecuniary jurisdiction of the Chief Magistrate's Court, and as no prejudice will be occasioned to the Respondent if the suit in question is transferred to Nakuru High Court for hearing and final determination, I hereby order that Kisumu CMCC No. E015 of 2024 be and is hereby withdrawn from Kisumu Chief Magistrate's Court to Nakuru High Court for hearing and final determination.
7. This Ruling to be typed and served upon the Chief Magistrate's Court, Kisumu for immediate action.
8. I make no orders as to costs.
9. This file is hereby closed.
10. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 18<sup>TH</sup> DAY OF MARCH, 2024**

**R. E. ABURILI**

**JUDGE**

