

UGANDA / JUDGMENT

Arab Contractors v Otai

(Miscellaneous Application 58 of 2023)

[2023] UGHCCD 240 (22 August 2023)

[2023] UGHCCD 240

COURT

HC: Civil Division (Uganda)

BEFORE

Adonyo, J

CASE / FILE NUMBER

Miscellaneous Application 58 of 2023

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The Republic of Uganda In The High Court of Uganda at Soroti Miscellaneous Application No. 0058 of 2023 (Arising from Miscellaneous Application No. 0026 of 2023) (All arising from Civil Suit No. 0002 of 2021)

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Arab Contractors ===== Applicant

Versus

===== Respondent Otai John Michael ===== 15

Before: Hon. Justice Dr Henry Peter Adonyo**Ruling**

This is an application by way of Notice of motion brought under section 98

- of the Civil Procedure Act and Order 52 rules 1,2&3 of the Civil Procedure 20 Rules for orders that the order dismissing Miscellaneous Application No. 0026 of 2023 seeking to set aside the order issued on the 21st day of January 2023 allowing the respondent to proceed ex-parte be set aside and Civil Suit No. 0002 of 2021 proceeds inter parte and costs of this application
- be provided for. 25

The grounds of the application are contained in the application and affidavit in support, the respondent filed his affidavit in reply.

The applicant was represented by M/s Okiror, Ourum & Co. Advocates while the respondent was represented by M/s Latigo & Co. Advocates who

proceeded by way of written submissions. 30

- This application is essentially concerned with the proceeding of CS 0002/2021 ex-parte as ordered by this court on the 21st day of January 2023. On the 13/04/2023 counsel for the plaintiff Ms. Alice Latigo in the absence of the defendants and their counsel prayed that the suit proceeds *ex parte* and be set for formal proof.
- Court noted that on 14/03/2023 counsel for the defendants and the 10 defendants were present in court when the date was set for scheduling, given that no reason for their absence was given court agreed that the matter should proceed for formal proof after an interlocutory judgement had been entered.
- The 13/07/2023 was agreed on as the date for formal proof, however, on 15 this date neither the plaintiff nor counsel entered appearance. On 13/04/2023 the plaintiff and counsel who had fixed the matter for formal proof on 13/07/2023 did not turn up and no reason was given. Court found that the absence of the plaintiff and counsel signified their loss
- of interest in proceeding or that the plaintiff had no evidence to adduce 20 and as such the matter was accordingly dismissed due to non-prosecution with no order as to costs.

This being the case this application has been taken over by events and as such is of no consequence.

This application is accordingly dismissed with no order as to costs. 25 I so order.

Adonyo, J 22nd August 2023

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