

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(COMMERCIAL DIVISION)**

**MISCELLANEOUS APPLICATION NO. 264 OF 2018**  
**(ARISING FROM CIVIL SUIT NO. 974 OF 2017)**

**RIGIL AGROTECH LTD                    ::::::::::::::::::::::::::::::::::: APPLICANT**

**VERSUS**

**MEDIC HOLDINGS LTD                ::::::::::::::::::::::::::::::::::: RESPONDENT**

**BEFORE: THE HON. JUSTICE DAVID WANGUTUSI**

**R U L I N G:**

The Applicant Rigil Agrotech Ltd seeks leave to appear and defend the suit filed by Medic holdings Ltd the Respondent in Civil Suit No. 974 of 2017.

The Application is grounded on the following.

- a) That the Applicant has a complete and good defence to the referenced Civil Suit as the same raises triable issues.
- b) That the claim of UGX 153,800,000/= by the Respondent is false.
- c) The Applicant has so far paid to the Respondent a sum of UGX 90,000,000/=.
- d) That the Applicant is yet to pay the balance of the purchase price because the fuel supplied to the Applicant by the Respondent was not of merchantable quality and the same damaged the Applicant's machinery.

The background can easily be discerned from the pleadings as follows:

The Plaintiff supplied the Defendant fuel worth UGX 153,800,000/= but the Defendant did not pay despite the demand for payment.

Submitting on an application for leave to appear and defend, Counsel for the Applicants admitted that the debt was originally UGX 153,800,000/=. Further that it reduced to UGX 103,800,000/= after some payments. He relied on Exhibit P.1 receipts of acknowledgement.

While admitting that there were no other payments since 25<sup>th</sup> January 2018, in the rejoinder Chandan Kumar the Commercial Manager of the Applicant deponed that another 40 million was paid by the Applicant but was not acknowledged.

The Respondent in reply by affidavit of Abdul Kazibwe insisted in paragraph 5 that the Applicant was indebted to the Respondent to the tune of UGX 153,800,000/=.

The Applicant relied on Exhibit P.1 he claimed were acknowledgements of payment. Exhibit P.1 were not contested by the Respondent. Exhibit P.1 show that on 15<sup>th</sup> December 2017 the Applicant paid ten million shillings reducing the balance to Shs. 143,800,000/=. Another of 15<sup>th</sup> January 2018 shows a payment of twenty million shillings and a reduced balance of Shs. 123,800,000/= and a third one dated 25<sup>th</sup> January 2018 of twenty million leaving a balance of 103,800,000/=.

While the Applicant has exhibited Exhibit P.1, the Respondent makes no comment about them in the affidavit in reply.

The insistence that the debt remains Shs. 153,800,000/= as against Exhibit P.1 certainly raises triable issues which can only be investigated in a trial.

The sum total is that triable issues having been established by the Applicant, leave is hereby granted to appear and defend.

The Applicant to file a Written Statement of Defence within 10 days from date of this ruling.

**Dated at Kampala this 12<sup>th</sup> day of July 2018.**

**HON. JUSTICE DAVID WANGUTUSI**  
**JUDGE**