

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
[COMMERCIAL DIVISION]
MISCELLANEOUS APPLICATION NO 1020 OF 2023
ARISING FROM CIVIL SUIT NO.0523 OF 2023
ROKO CONSTRUCTION LTD :::::::::::::::::::::::::::::::::::APPLICANT
VERSUS
1. TEN LOGISTICS LTD]
2. MARITIME FREIGHT CO. LTD]:::::::::::::::::::::::::RESPONDENTS

Before Hon. Lady Justice Patricia Kahigi Asiiimwe

Ruling

Introduction

1. This Application was brought under Section 33 of the Judicature Act Cap 13, Section 98 of the Civil Procedure Act Cap 71, Order 36 Rule 4, and Order 52 Rule 1 & 3 of the Civil Procedure Rules SI 71-1.
2. The Applicant filed this Application seeking orders for grant of unconditional leave to appear and defend Civil Suit No. 523 of 2023 and the costs of the Application.
3. The grounds of the Application are laid down in the Notice of Motion and in the Affidavit in Support deponed by Mark Koehler, the Director of the Applicant. He stated that:
 - a) The Applicant is not indebted to the Respondents.
 - b) The Applicant shall raise a preliminary objection that the Affidavit in support of specially endorsed Plaintiff contains material falsehoods thus defective and is barred by law.



- c) The Applicant shall raise a preliminary objection that the Respondents have no cause of action against the Applicant and have no locus standi to sue since they were not party to the alleged transaction.
- d) The Applicant shall raise a preliminary objection that the suit is barred in law and ought to be struck off.
- e) The Applicant has never legally contracted the Respondents; they are strangers to the contract and hence have no locus standi.
- f) The Applicant contracted with Welgrow Line (U) Ltd as its clearing agent for the importation of a grinder and fasteners; and paid all the sums as obligated but Welgrow Line (U) Ltd breached its obligations.
- g) In the debt settlement agreement, the Respondents admit that the only party indebted to them is Welgrow Line (U) Ltd.

4. The Respondents opposed the Application by way of an Affidavit in Reply deponed by Dilpesh Rajnikant Patel, Director of the Plaintiff Company. He stated that:

- a) The Applicant appointed the 2nd Respondent as the clearing agent and forwarding agent for the goods through correspondence to the imports department of MAERSK line, the shippers of the goods.
- b) The said correspondence formed the basis of the relationship between the Applicant and the Respondents since it set out the duties and obligations of the Respondent.
- c) After the appointment of the 2nd Respondent, the 1st and 2nd Respondent worked together to clear the goods.

5. The Applicant in rejoinder stated that: