



**Co-operative Bank of Kenya Limited v Seven Fourteen Limited & 5 others (Civil Case 314 of 2008) [2023] KEHC 24754 (KLR) (Commercial and Tax) (30 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24754 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
CIVIL CASE 314 OF 2008  
JWW MONG'ARE, J  
OCTOBER 30, 2023**

**BETWEEN**

**THE CO-OPERATIVE BANK OF KENYA LIMITED ..... PLAINTIFF**

**AND**

**SEVEN FOURTEEN LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**ARESCO LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**JOSHUA MBITHI ..... 3<sup>RD</sup> DEFENDANT**

**MARGARET WANGUI ..... 4<sup>TH</sup> DEFENDANT**

**GEORGE MBITHI MUTUNGA ..... 5<sup>TH</sup> DEFENDANT**

**STEPHEN KIOKO ..... 6<sup>TH</sup> DEFENDANT**

**RULING**

1. On 16<sup>th</sup> April 2021 the Applicant moved this court by a Notice of Motion brought under Order 42 Rule 6(1) and Order 51 Rule 1 of the [Civil Procedure Rules](#) 2010, Section 1A, 1B, 3A of the [Civil Procedure Act](#) and 159(2)(d) of the [Constitution](#) of Kenya, 2010 seeking the following orders:-
  1. Spent
  2. Spent
  3. That there be a stay of any further proceedings in this case and in particular the taxation of the Defendants' Party and Party Bill of Costs dated 16<sup>th</sup> March, 2021 filed in pursuance of the Order of this Honourable Court, made on 31<sup>st</sup> March 2020, pending the hearing and



determination of the Plaintiff's Appeal at the Court of Appeal, being Civil Appeal No. E455 of 2020.

4. That costs of this application be provided for.
2. The Application was supported on the grounds set on its face and the supporting affidavit of Elissa Otembo sworn on 16<sup>th</sup> April 2021. The Respondents having been served with the Application did not file any response to the same. The matter came up before court on several occasions and in those occasions there was no appearance or representation by the Respondents or their advocates. A perusal of the court record reveals that the Applicant made several attempts to serve the Respondents and did on each occasion file an Affidavit of Service.
3. I have noted the application filed herein seeks to stay proceedings in this case pending the hearing and determination of the Appeal filed by the Applicant in Civil Appeal No. E455 of 2020. The same is yet to be determined. I also note that several attempts have been made by the Applicant to notify the Respondents of the same without much success. The application is therefore not opposed and the same is allowed as prayed with costs to the Applicant.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 30<sup>TH</sup> DAY OF OCTOBER 2023**

.....

**J. W. W. MONG'ARE**

**JUDGE**

In the Presence of:-

Mr. King'ara holding brief for Mr. Kimondo Mubea for the Plaintiff.

No appearance for the Defendants.

Amos - Court Assistant

