



REPUBLIC OF KENYA



**KENYA LAW**  
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**Muhinyuza & 2 others v Kiriimi & 2 others (Civil Suit E413 of 2023)  
[2023] KEHC 25572 (KLR) (Commercial and Tax) (22 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 25572 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
CIVIL SUIT E413 OF 2023  
A MABEYA, J  
NOVEMBER 22, 2023**

**BETWEEN**

**DESIRE MUHINYUZA ..... 1<sup>ST</sup> APPLICANT  
STAY ONLINE LIMITED (RWANDA) ..... 2<sup>ND</sup> APPLICANT  
AMBROSE WAMARI OBARA ..... 3<sup>RD</sup> APPLICANT**

**AND**

**KOOME KIRIMI ..... 1<sup>ST</sup> RESPONDENT  
REGISTRAR OF COMPANIES ..... 2<sup>ND</sup> RESPONDENT  
STAY ONLINE LIMITED (KENYA) ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. When this matter came up for mention for directions on November 20, 2023, counsels brought to the Court's attention, the existence of two other matters touching on the same subject matter. Mr Omwanza, learned Counsel for the 1<sup>st</sup> and 3<sup>rd</sup> respondent stated that the subject matter herein is shareholding in the 3<sup>rd</sup> defendant. That there was HCC No E 357 of 2023 and HCC No 481 of 2023 pending before Mongare J and Dr. Mugambi J. I called for both files for perusal.
2. I have now considered all the three matters carefully. Contrary to the submission by learned counsel Mr. Omari that the dispute is some money in some bank accounts, the Court has confirmed that Mr. Omwanza's assertion is correct. That the dispute in all the three matters touch on the shareholding and directorship in the company known as Stay Online Limited. The Court has also noted that, there has been several orders flying around and there is all likelihood of the different courts making conflicting orders thereby embarrassing the administration of justice.



3. There already exists an order freezing monies held in some accounts in the name of the disputed company. Such monies while frozen add no value to the economy. The faster the money is released to the economy for circulation the better. That can only be arrived at if the real dispute between the parties is tried and determined.
4. In view thereof, it is imperative that the trial of the dispute is expedited and concluded forthwith. Hearing application after another will not solve the problem. I note that there are now pending about 4 applications in total while one has been concluded. Even if those applications are determined in whichever manner, the same cannot finally determine the dispute.
5. Accordingly, in view of the foregoing and under the constitutional imperative and overriding objective that justice be delivered without delay, I make the following directions: -
  - a. That the trial of the dispute herein be expedited and determined without any further delay.
  - b. That since the issues in all the three matters are the same and the witnesses are likely to be the same, all the three matters are hereby consolidated and HCCC No E 481 of 2023 becomes the lead file.
  - c. Hence forth, the parties and title of the case shall be as follows:-

Desire Muhinyuza – 1<sup>st</sup> Plaintiff  
Stay online Limited – 2<sup>nd</sup> plaintiff  
Stay online Limited (Rwanda) – 3<sup>rd</sup> plaintiff  
Ambrose Wamari Obara – 4<sup>th</sup> plaintiff  
Vs  
Kiriti Koome – 1<sup>st</sup> Defendant  
United Bank of Africa – 2<sup>nd</sup> Defendant  
Registrar of Companies – 3<sup>rd</sup> Defendant
  - d. I have looked at the plaint in HCC No E 481 of 2023 which has joined the Attorney General and the Directorate of Criminal Investigations. No allegation has been made against the two nor is there any relief sought against them. Accordingly, I do not think that they are necessary parties and they are hereby excluded.
  - e. Pre trial
    - i. Let the plaintiffs file and serve their witness statements cross referenced with a paginated bundle of documents within 7 days of this order.
    - ii. The defendants to file and serve their respective defences, witness statements cross referenced with their paginated bundles of documents within 7 days of service by the plaintiffs.
    - iii. Reply to defence, if any, be filed and served within 48 hours of service of the defences.
    - iv. In default of any party complying with the foregoing directions, the offending party will not be permitted to file any other pleading or rely on any document or call any evidence at the trial.



- v. If any party objects to any document produced by any other party and would require the same to be proved strictly in accordance with the rules of evidence at the trial, such party shall issue a notice of such objection, file and serve the same upon all parties by close of business on December 11, 2023.
  - vi. Any party served with such an objection and wishes to put in a witness statement of the person to produce and prove the objected document, shall be at liberty to file and serve such witness statement of that witness before close of business on December 14, 2023.
  - vii. Each party shall be required to deliver to Court the physical pleading of his/its documents filed in the CTS by close of business on December 15, 2023.
6. Time is of the essence and the time lines stated above must be adhered to strictly.
  7. Hearing in open Court on 18<sup>th</sup>, 19<sup>th</sup> and December 20, 2023.
  8. This order for directions be extracted by the Deputy Registrar of this Court and be supplied to all the parties.
  9. In the meantime, the freezing orders in place are extended until December 20, 2023.

It is so directed.

**DATED AND DELIVERED AT NAIROBI THIS 22<sup>ND</sup> DAY OF NOVEMBER, 2023.**

**A. MABEYA, FCI Arb**

**JUDGE**

