



Joseph Gikonyo T/A Garam Investments v St. Elizabeth Academy Karen Limited (Commercial Case 488 of 2013) [2022] KEHC 658 (KLR) (Commercial and Tax) (20 June 2022) (Ruling)

Neutral citation: [2022] KEHC 658 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL CASE 488 OF 2013
DAS MAJANJA, J
JUNE 20, 2022**

BETWEEN

JOSEPH GIKONYO T/A GARAM INVESTMENTS APPLICANT

AND

ST. ELIZABETH ACADEMY KAREN LIMITED RESPONDENT

RULING

1. The Respondent in this matter has filed the Notice of Motion dated 14th March 2022 seeking a stay of execution of the ruling dated 23rd February 2022 pending hearing and determination of HCCC NO. 333 of 2013, St. Elizabeth Academy Karen Ltd v National Bank of Kenya Limited and NRB ELC Case No. 715 of 2017, GA Life Insurance Ltd v St. Elizabeth Karen Limited.
2. The ruling dated 23rd February 2022 dismissed the Respondent's appeal arising from the decision of the Deputy Registrar on assessment of costs due to the Applicant. There is no appeal pending against that decision hence the auctioneer's costs are due and the Applicant is not party to the pending proceedings. In the event the suits are successful, I do not see any difficulty in the Respondent recovering the costs as an auctioneer is an agent of a disclosed principle. The principal parties in those suits would be in a position to refund the sum if it is part of the respective claims.
3. The application dated 14th March 2022 lacks merit. It is dismissed with costs assessed at KES. 20,000.00

DATED AND DELIVERED AT NAIROBI THIS 20TH DAY OF JUNE 2022.

D. S. MAJANJA

JUDGE

Ms Okullo instructed by Jane Gachuiga and Associates Advocates for the Appellant.



Ms Ochieng instructed by S. K. Amani and Associates Advocates for the Respondent.

