



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW MISC APPLICATION NO. 238 OF 2016

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

COMMISSIONER OF CO-OPERATIVES DEVELOPMENT....RESPONDENT

AND

VALENCIA SACCO SOCIETY LIMITED.....INTERESTED PARTY

EX PARTE APPLICANT:

SAN VALENCIA LIMITED

RULING

The Application

1. The *ex parte* Applicant herein, San Valencia Limited, has filed an application by way of a Notice of Motion dated 13th May 2021, wherein it is seeking the following orders:

1. This Application be certified as extremely urgent and in the first instance service of the same be dispensed with and be heard ex-parte.

2. The sum of Kshs. 2,000,000/= retained as security in bank account No.100182815 held by the Applicant herein SAN VALENCIA LIMITED with (formally) NIC (currently) Bank Junction Branch be released to the Interested Party herein VALENCIA SACCO SOCIETY LIMITED .

3. Costs of this Application be provide for.

2. The said application is supported by an affidavit sworn on even date by Phineas Kimathi the *ex parte* Applicant's, who states that he is the *ex parte* Applicant's Chief Executive Officer. The grounds for the application are the *ex parte* Applicant and the Interested Party have since agreed and consented to the money held as security being released to the Interested Party to enable its operations and amicably settle this matter. Further, that this matter has remained dormant since May 2016 and all the parties want to amicably settle the matter out of court

3. I have perused the court record, and note that this suit was struck out by Odunga J. on 19th September 2021, after the *ex parte* Applicant failed to comply with directions to file a substantive Notice of Motion, and the stay orders were discharged. The *ex parte* Applicant's Notice of Motion dated 13th May 2021 therefore has no leg to stand on as its stratum no longer exists, and in any event is not necessary, as the stay orders are no longer in place.

The Orders

4. In the circumstances, I hereby direct and order as follows:

I. The *ex parte* Applicant's Notice of Motion dated 13th May 2021, is hereby struck out for being incompetently filed.

II. There shall be no order as to costs.

5. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 21ST DAY OF MAY 2021

P. NYAMWEYA

JUDGE