



THE HIGH COURT OF KENYA

AT NAIROBI

COMMERCIAL AND TAX DIVISION

CORAM: D. S. MAJANJA J.

INSOLVENCY PETITION NO. E172 OF 2019

IN THE MATTER OF THE INSOLVENCY ACT, 2015

AND IN THE MATTER OF

SHOWCASE PROPERTIES LIMITED

BETWEEN

JOHN MUGAMBI T/A

MUGAMBI & COMPANY ADVOCATES 1ST PETITIONER

BEATRICE KARIUKI T/A

BEATRICE KARIUKI & ASSOCIATES2ND PETITIONER

AND

SHOWCASE PROPERTIES LIMITED RESPONDENT

RULING

1. This petition has been brought by the petitioners on the ground they have a judgment and decree in their favour for Kshs. 28,063,325.00 in **MILIMANI HC COMM NO. 436 OF 2017; JOHN MUGAMBI T/A MUGAMBI & COMPANY ADVOCATES AND BEATRICE KARIUKI T/A BEATRICE KARIUKI & COMPANY ADVOCATES V SHOWCASE PROPERTIES LIMITED.**

2. The Company now seeks stay of the petition or further proceedings on the ground that it has now applied to set aside the default judgment entered against it in **HC COMM NO. 436 OF 2018**. The judgment has now been set aside by a ruling dated 24th August 2020 hence the debt, which is based on a retainer agreement, is disputed.

3. This court has discretion to dismiss or stay the petition in such circumstances. Since liability for payment of fees under the retainer agreement is not disputed, I propose to stay the petition.

4. I allow the Notice of Motion dated 28th May 2020 and order that this petition be stayed pending hearing and determination of **HC COMM NO. 436 OF 2018** or further orders of the court. The petitioners are at liberty to apply for further orders. Costs in the cause.

DATED and DELIVERED at NAIROBI this 24th day of AUGUST 2020.

D. S. MAJANJA

JUDGE

Court Assistant: Mr. M. Onyango.

Ms Muthama instructed by Odhiambo, Talam and Company Advocates for the petitioners.

Mr Mungai instructed by Mungai Kalande and Company Advocates for the Company