



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND ADMIRALTY DIVISION

CIVIL SUIT NO. 677 OF 2010

DANIEL KIPKEMEI KOTUT..... PLAINTIFF

VERSUS

SAMWEL GICHURU.....1ST DEFENDANT

CITIVILLAS LIMITED.....2ND DEFENDANT

ZANVIEW INVESTMENTS LIMITED.....3RD DEFENDANT

RULING

1. In this matter, there is a judgment pending execution for **Ksh. 6,479,744.94** as at **March 2018**. That judgment is against **Samuel Gicheru**, the **1st defendant**.

2. The **1st defendant** has made previous application for stay of execution seeking an order that he be allowed to settle the decretal sum by instalments.

3. This court by order of **27th July 2017**, ordered as follows:

“(1). That the further execution be and is hereby put on hold for the next 30 days during which the decretal amount must be paid in full. (2). The judgment debtor (1st defendant) will pay costs of the Court Broker and the respondent’s costs of the application.”

4. The application under consideration by the 1st defendant in this Ruling, is dated **20th April, 2018**. The 1st defendant seeks stay of execution of the decree and he seeks he be granted **90 days** to settle the decretal sum.

5. The application was opposed by **Daniel Kipkemei Kotut (the plaintiff)**. The main ground of opposition is that the 1st defendant’s application offends previous orders of this court.

6. There is no doubt that the 1st defendant gives scant respect to court orders. He was granted stay of execution in **July 2015** and was granted **30 days** to settle the decretal amount. He did not obey that order and to-date he has given no reason for his failure to obey that order.

7. His present application was filed on **20th April 2018**. By that application he sought 90 days to pay the decretal sum. By the date that application was argued before Court, that is **8th May 2018**, the 1st defendant had not began to pay the decree holder. It is therefore clear that his application is no more than an attempt to delay execution of the decree.

8. For the above reasons, the **Notice of Motion dated 20th April 2018**, is **dismissed with costs** to the decree holder.

DATED, SIGNED and DELIVERED at NAIROBI this 22nd day of May, 2018.

MARY N. KASANGO

JUDGE

Ruling read in open court in the presence of

Court Assistant.....Sophie

.....for the Plaintiff

.....for the 1st Defendant

.....for the 2nd Defendant

.....for the 3rd Defendant