



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

COMMERCIAL & ADMIRALTY DIVISION

HCC. NO. 267 OF 2014

CONSOLIDATED WITH CIVIL SUIT NO. 408 OF 2014 &

HC MISC. APPLICATION 299 OF 2015

CENTRAL BANK OF KENYA.....PLAINTIFF

VERSUS

TSAVO SECURITIES LTD.....DEFENDANT

AND

STANDARD CHARTERED BANK LTD....INTERESTED PARTY

RULING

1. The Notice of Motion dated 1st March 2017 need not be controversial. It seeks the following prayers:-

1. THAT this Honourable Court be pleased to review and/or vary the orders of this Honourable Court made on 1st July 2014 to allow the Defendant to execute the requisite documentation required to enable disposal of Treasury Bonds in the name of the Defendant to satisfy its indebtedness to the Interested Party and in default the Deputy Registrar of this Honourable Court to do so.

2. THAT this Honourable Court be pleased to review and/or vary the orders of this Honourable Court made on 1st July, 2014 to allow the Interested Party/applicant to sell, transfer and/or dispose Treasury Bonds in the name of the Defendant to offset its loan balance and cost owing to the Interested Party.

3. THAT in the alternative this Court be pleased to grant such other or further orders as it may deem fit and just in the circumstances of this case.

4. THAT the costs of this Application be provided for.

2. The Defendant does not oppose the Application, while the Plaintiff's opposition is partial and limited.

3. Some Treasury Bonds belonging to the Defendant are held under lien by the Interested Party in respect to its indebtedness therein. At the same time the Defendant is indebted to the Plaintiff. It is common ground between all parties herein that the Bonds under lien ought to be sold by the Interested Party at the best prevailing market rate. It is anticipated that the amount to be realized at that sale shall be sufficient to pay the entire debt of the Defendant to the interested Party. Any surplus would in the first instance be to the credit of the Plaintiff in respect of its debt.

4. The only sticky issue is the amount to be recovered by the Interested Party. The Plaintiff asserts that this is Khs.47,424,806.94 while the Interested Party's position is that its debt should be settled fully but does not give the extent of that indebtedness. This really is the only outstanding issue and I have to take a view that a pragmatic approach is to first attempt an amicable resolution from the parties.

5. I direct that Counsel for the parties appear before me on a date I shall shortly appoint with substantive instructions on this narrow question. I shall in that session attempt to have the parties agree.

Dated, delivered and signed in open Court at Nairobi this 21st day of June 2018.

F. TUIYOTT

JUDGE

In the presence of:

Muchiri for Defendant

N/A for Interested party

N/A for Kithi

Nixon-Court Assistant