



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISUMU**

**COMMERCIAL CASE NO. 75 OF 2018**

**(CORAM: R. E. ABURILI – J)**

**DORCUS ADHIAMBO MBUDI.....PLAINTIFF/RESPONDENT**

**VERSUS**

**THE ARCHDIOCESE OF KISUMU**

**CATHOLIC CHURCH.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**ERASTUS KHANDIRA.....2<sup>ND</sup> DEFENDANT/RESPONDENT**

***(KISUMU FILE NO. 75 OF 2018 FORWARDED FOR HEARING BY D.R. KISUMU BEFORE VACATION DUTY COURT – SIAYA  
(Formerly Environment and Land Case No. 155/2012))***

**RULING:**

I have considered the application by the Defendant/Judgment-Debtor as certified urgent.

I note that the Warrants of Attachment of movable property belonging to the Judgment-Debtor issued in August, 2018 claims for KShs.12,097,813 yet in June, 2018, the Warrants were for KShs.6,422,308. The principal sum as per the decree was KShs.2.2. There is a serious dispute as to the interest due and whether the principal sum of 2.2 million which has been settled has attracted interest totaling to over 10 million.

That being the case, I am satisfied that the Applicant herein has made out a case for temporary stay orders pending interpartes hearing. In the premises, I make the following orders:

- (1) There shall be temporary stay of Execution of the Judgment and/or decree dated 14.2.2018 pending the hearing and determination of the application dated 30<sup>th</sup> August, 2018 interpartes.**
- (2) The Warrants of attachment and sale issued to Joni Consult Auctioneers for the attachment and sale or taking of possession of the Applicant/Defendant/Judgment-Debtor's movable properties on 23.8.2018 are hereby temporarily recalled and stayed pending hearing and determination of the application herein interpartes.**
- (3) The Applicant to serve the Respondent/Plaintiff/Decree-Holders with the application and order herein for interpartes hearing on 13<sup>th</sup> September, 2018 before the Duty Judge, Kisumu Court.**
- (4) Cost shall be in the cause**

**Delivered, Dated and Signed this 28<sup>th</sup> day of August, 2018.**

**R. E. ABURILI**

**JUDGE**