



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KITALE**

**CIVIL CASE NO. 8 OF 2018**

**HENRY SIMON NYANGAU.....PLAINTIFF/APPLICANT**

**VERSUS**

**EDNA CHERONO BORE.....1ST DEFENDANT/RESPONDENT**

**SPIRE BANK LTD.....2ND DEFENDANT/RESPONDENT**

**PAMPA CHERUSCARIA LTD.....3RD DEFENDANT/RESPONDENT**

**JOSEPH M. GIKONYA T/A GARAM**

**INVESTMENT AUCTIONEERS.....4TH DEFENDANT/RESPONDENT**

**RULING**

1. The application herein dated 14/8/2018 is the 3<sup>rd</sup> one to be filed by the applicant to seek stay of sale of Land parcel No. Kitale Municipality Block 2116/1050 by the 2<sup>nd</sup> Respondent in realisation of its statutory power of sale. It further seeks stay pending an intended appeal.

2. I have perused the proceedings herein and specifically the lengthy decision of my brother in ELC court Judge Mwangi Njoroge dated 4/7/2017. Save for the prayer number (e) that the parties be granted 60 days to attempt an alternative settlement, I find the other issues raised by the applicant similar to these raised before Njoroge J.

3. For the above reasons I shall not waste much judicial time. Between July 2018 and todate, I presume that the applicant as well as the the 2<sup>nd</sup> Respondent have made an attempt to settle the liability.

4. Having perused the pleadings herein I am inclined to dismiss the application herein dated 14/8/2018 with costs to the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents. The interim orders of injunction earlier issued are vacated.

**Delivered, signed and dated at Kitale this 29<sup>th</sup> day of October, 2018.**

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**H.K. CHEMITEI**

**JUDGE**

**29/10/18**

**In the presence of:**

**Karani for Applicant**

**No appearance for Respondents**

**Court Assistant – Kirong**

**Ruling read in open court.**