



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL DIVISION**  
**MISC. CRIMINAL APPLICATION NO.194 OF 2013**

**TIMOTHY ISAAC BRYANT.....1<sup>ST</sup> APPLICANT**  
**GITONGA GERRY GRAHAM.....2<sup>ND</sup> APPLICANT**  
*(Both practicing law in the firm of Bryant & Associates)*

**REGISTERED TRUSTEES KENYA YOUTH**

**HOSTELS ASSOCIATION.....3<sup>RD</sup> APPLICANT**

**VERSUS**

**INSPECTOR GENERAL OF POLICE.....1<sup>ST</sup> RESPONDENT**  
**DIRECTOR OF CRIMINAL INVESTIGATIONS DEPARTMENT.....2<sup>ND</sup> RESPONDENT**  
**ADAN AHMED HASSAN.....3<sup>RD</sup> RESPONDENT**

**AND**

**DESIRAL COMPANY LIMITED.....1<sup>ST</sup> INTERESTED PARTY**  
**JAMES OSOGO.....2<sup>ND</sup> INTERESTED PARTY**  
**GIDEON CHRIS MAINA.....3<sup>RD</sup> INTERESTED PARTY**  
**MUSA MUKANGWA.....4<sup>TH</sup> INTERESTED PARTY**  
**FRANCIS MUTHINI.....5<sup>TH</sup> INTERESTED PARTY**

**RULING**

On 27<sup>th</sup> June 2014, this court ordered the Applicants to deposit in court a sum of Kshs.23 million pending the hearing and determination of the dispute involving the ownership of the same. On 2<sup>nd</sup> August 2016, the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> & 5<sup>th</sup> Interested Parties applied to this court to have the said sum of money transferred from the court’s account to an interest bearing account at Kenya Commercial Bank Nairobi High Court

Branch in the joint names of the Deputy Registrar of the High Court, Criminal Division Nairobi and Lawrence M. Mbabu & Associates, the advocates for Kenya Youth Hostels Association. The grounds in support of the application are stated on the face of the application. In summary, there are pending police investigations in respect of the ownership of the said sum of money. Pending the conclusion of the investigations, the said Interested Parties requested the court for the said sum of money deposited in an interest earning account. The application is not opposed. However, the Applicants have indicated that the account to be opened should include them as signatories of the account.

This court heard rival submission made by Mr. Mbabu for the Interested Parties, Mr. Laichena for the 1<sup>st</sup> Interested Party and Mr. Saende for the Applicants. It was clear to this court that there is no dispute between the parties regarding the request made by the said Interested Parties for the said sum of money to be transferred from the court's account to an interest earning account to be opened. Mr. Mbabu is vehement in his insistence that the Applicants should be excluded from being signatories of the interest earning account. Mr. Saende on his part explained that the issue as to who is entitled to the said sum of money is yet to be resolved. It is in the interest of all the parties that the Applicants be made signatories of the joint account to be opened. The parties to this application concede that the issue regarding the ownership of the money is yet to be determined by the court. There are ongoing criminal investigations that have not been completed. It is only just and fair that the interest bearing account to be opened should have all the protagonists as joint signatories.

In the premises therefore, the application for the sum of Kshs.23 million to be transferred from the court's account to an interest bearing account at Kenya Commercial Bank High Court Branch Nairobi is hereby allowed. The interest bearing account shall be opened in the names of the Deputy Registrar Criminal Division Nairobi, Lawrence M. Mbabu & Associates and Bryant & Associates. It is so ordered.

**DATED AT NAIROBI THIS 28<sup>TH</sup> DAY OF SEPTEMBER 2016**

**L. KIMARU**

**JUDGE**