



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**PETITION NO 43 OF 2015**

**ORTHODOX TOWERS MANAGEMENT CO. LTD.....PETITIONER**

**VERSUS**

**THE ATTORNEY GENERAL.....RESPONDENT**

**MILIKI SAVINGS & CREDIT SOCIETY LTD.....1<sup>ST</sup> INTERESTED PARTY**

**ORTHODOX ARCHBISHOPRIC IRINOUPOLIS....2<sup>ND</sup> INTERESTED PARTY**

**RULING NO. 3**

1. In the consent between the parties entered into on 12<sup>th</sup> June 2015, it was agreed that the interest accrued between 10<sup>th</sup> February 2015 and 3<sup>rd</sup> June 2015 payable to the 1<sup>st</sup> interested party was Kshs10,813,547. This was the amount calculated by the respondent in its letter dated 5<sup>th</sup> June 2015. This interest covered the period that the Court found that the petitioner was liable for.
2. The respondent now demands a further amount of Kshs2,156,618, apparently for the period between 6<sup>th</sup> June 2015 and 3<sup>rd</sup> July 2015 when the amount was credited to the 1<sup>st</sup> interested party's account.
3. The 1<sup>st</sup> interested party, according to the record, applied for release of the money held in Court on 8<sup>th</sup> June 2015. What transpired between then and the date the money was released is not clear. It was, however, outside the control of the petitioner.
4. One must ask the question: Suppose the 1<sup>st</sup> interested party did not apply for the release of the money until, say, a month later, and it was released two months later. Would the petitioner still be held liable for the interest?
5. In my view, such a scenario would be extortionate and unfair, and depicts the respondent and 1<sup>st</sup> interested party as displaying the character of a Shylock. It is not just, and the court must state so.
6. Consequently, I am satisfied that the petitioner's application dated 21<sup>st</sup> July 2015 has merit, and I allow prayers 3, 4 and 5 thereof with costs to the petitioner.

**Dated, Delivered and Signed at Nairobi this 23<sup>rd</sup> day of July 2015**

**MUMBI NGUGI**

**JUDGE**