

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 1807 OF 2002

FORMERLY MILIMANI COMMERCIAL COURT CIVIL CASE NO. 987 OF 2001

BOOKPOINT LIMITED.....PLAINTIFF

VERSUS

GUILDERS INTERNATIONAL BANK LTD1ST DEFENDANT

GUARDIAN BANK LIMITED.....2ND DEFENDANT

RULING ON DIRECTIONS

1. On 25.5.2015, Justice Onyancha delivered a ruling in which he clearly stated that this court has jurisdiction to hear and determine this suit. In essence the learned judge dismissed the preliminary objection raised by Mr. Oduol learned advocate for the defendant. Being dissatisfied, the defendant filed a notice of appeal to challenge the aforesaid decision in the Court of Appeal.

2. The 2nd defendant's application seeking to stay the plaintiff's notice to show cause was placed before this court for hearing. Before the hearing of the aforesaid motion could commence, Mr. Oduol urged this court to stay the hearing of the matter for 30 days to await the decision of the Supreme Court on the question of jurisdiction of this court to hear and determine Land and Environment matters. Mr. Nagpal, learned advocate for the plaintiff strenuously opposed the application. He was of the view that the application was a delaying tactic which should not be entertained by this court.

3. I have considered the oral submissions of learned counsels.

This court is being asked to exercise its discretion to stay further proceedings of the matter to await an important decision by the Supreme Court. The Hon. Mr. Justice Onyancha has already decided on the question of jurisdiction and came to the conclusion that this matter is properly before this court. The 2nd defendant is unhappy with Justice Onyancha's decision. In fact a notice of appeal has already been lodged. In my humble view, I find no genuine reason why I should adjourn the hearing of this matter. This court has already rendered itself on the question of jurisdiction hence it cannot go back there. If well advised the 2nd defendant should file the necessary application before the relevant court to stay further proceedings of this court.

4. In the end, I find no merit in the oral application. I direct that the matter proceeds to hearing as scheduled.

Dated and delivered in open court this 13th day of November, 2015.

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiff

.....for the Defendant