

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL SUIT NO. 148 OF 2012

KENYA ALLIANCE INSURANCE COMPANY.....PLAINTIFF

V E R S U S

MARK KENNETH KANGONGO.....DEFENDANT

RULING

1. The relationship between Plaintiff and Defendant is one of Insurer and Insured. Plaintiff issued Defendant with Insurance Cover for motor vehicle KBG 132M. Plaintiff by its plaint pleaded that that Insurance Policy covered Plaintiff's business, use in carriage of passengers in connection with Plaintiff's domestic and pleasure but not for hire and reward.
2. An accident occurred with the said motor vehicle which motor vehicle the Plaintiff alleges was being used as a taxi a purpose not covered by the Insurance Policy. The Defendant has been sued by the passengers who were on that motor vehicle at the time of accident in various suits. Plaintiff by this suit seeks to repudiate liability to pay for any death or injury sustained.
3. A Notice of Motion dated 31st December 2013 is before Court for an order to stay **Kwale SRMCC No. 24 of 2012** and **Kwale SRMCC No. 128 of 2011** or any other suit that arise out of the accident involving motor vehicle KBG 132M which occurred on 12th December 2010.
4. As rightly stated by the Plaintiff's Manager in the supporting affidavit the determination of this suit will impact all those suits filed for claim for personal injury.
5. The Defendant did not oppose the application though served.
6. The application is merited and the following orders are granted-
 - a. **This Court grants stay of proceedings in Kwale SRMCC No. 24 of 2012 and Kwale SRMCC No. 128 of 2011 or any other suit filed or yet to be filed arising out of the accident involving KBG 132M which occurred on 12th December 2010. Such stay shall only be for a period of six (6) months unless extended by the Court.**
 - b. **To ensure speedy conclusion of this case, at the reading of this Ruling a date for direction and hearing date shall be given.**
 - c. **The costs of Notice of Motion dated 31st December 2013 shall be in the cause.**

DATED and DELIVERED at MOMBASA this 3RD day of APRIL, 2014.

MARY KASANGO

JUDGE