



**REPUBLIC OF KENYA**

**High Court of Kisii**

**Civil Suit 1 of 2013**

**KENYA COMMERCIAL BANK LIMITED ..... PLAINTIFF/APPLICANT**

**VERSUS**

**TOWN COUNCIL OF TABAKA ..... DEFENDANT/RESPONDENT**

**RULING**

1. The plaintiff's/applicant's Notice of Motion dated 24<sup>th</sup> January 2013 filed under certificate of urgency and brought under **sections 1A, 1B and 3A** of the **Civil Procedure Act, Cap 21 Laws of Kenya, Order 39 Rules 1 (iii), 2 and 5** and **Order 51 (1)** of the **Civil Procedure Rules** seeks orders of ATTACHMENT of the Defendant's money or funds now held in the account name of the defendant at the Co-operative Bank of Kenya Limited, Kisii Branch pending the final hearing and determination of the present application.
2. The plaintiff/applicant also prays that the Defendant be ordered to furnish security into court which will satisfy the orders which may be issued in the suit herein. Thirdly, the plaintiff/applicant prays for warrants of attachment to be issued against the defendant for the attachment of its goods/property for the satisfaction of the decree herein, and finally the plaintiff/applicant prays for any other orders which this Honourable Court may deem fit and just to grant in the circumstances.
3. The application is premised on the grounds on the face thereof and is supported by the annexed affidavit of JOHN B. MOMANYI the Branch Manager of the plaintiff/applicant together with the annexures thereto.
4. The application having been certified urgent plaintiff/applicant was ordered to serve the same together with a hearing notice. There is proof of service of the pleadings and the hearing notice vide the affidavit of service by William Ogwara dated 31<sup>st</sup> January 2013.
5. The defendant has not filed any replying papers to the application. No appearance was made by the defendant when this matter came up for hearing on the 11<sup>th</sup> February 2013.
6. The court therefore finds that the application dated 24<sup>th</sup> January 2013 is unopposed. In the premises, the orders sought by the applicant be and are hereby granted in terms of prayers (iii) and (iv) thereof. The defendant/respondent shall deposit into court, within the next twenty one (21) days the sum of Kshs.11049943/= being the amount as would satisfy the decree pending the hearing and determination of this suit.
7. The applicant shall have the costs of this application. It is so ordered.

**Dated and delivered at Kisii this 19<sup>th</sup> day of February, 2013**

**RUTH NEKOYE SITATI**

**JUDGE.**

In the presence of

Mr. Maosa (present) for Applicant/Plaintiff

N/A for Respondent/Defendant

Mr. Bibu - Court Clerk

**RUTH NEKOYE SITATI**

**JUDGE.**