

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

Civil Suit 484 of 1993

MALINDI AIR SERVICES LTD PLAINTIFF

V E R S U S

QUEENSWAY INVESTMENT LTD DEFENDANT

RULING

This is an application under the provisions of Order XXI, Rule 36 of the civil procedure Rules and seeks the following orders; that:-

- (a) Mr. Caleb Kipkiskey and Mrs. Agnes Cheptum Kipingor the Directors of the Defendant Company do produce to the applicants' advocates the books of accounts and other documents of the Defendant Company for scrutiny.*
- (b) The said two directors of the Defendant Company be orally examined as to the debts owing to the Defendant (Judgement Debtor), and what property and where situated and means of the Defendant Judgement debtor has of satisfying the decree that was passed against the Defendant herein.*
- (c) Costs of this application be provided for.*

I have considered the application and the affidavit in support sworn by Mr. John Cleave a director of the Plaintiff/Decree-holder Company.

The plaintiff has made reasonable efforts and diligence in attempting to execute the decree. It appears that the Defendant's are being un-co-operative in disclosing what properties are owned by the defendant Company and its financial situation. There is no purpose for falling back to Winding-Up of a company where there is a chance of execution by attachment of property.

I do hereby grant prayers (a) and (b). I do order that Summons do issue and be served on the two directors to appear in court on 22nd March, 2010 for examination. In default the court may proceed to grant orders their absence withstanding.

Dated and delivered at Mombasa this 16th day of March, 2010.

M. IBRAHIM

JUDGE