



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
(MILIMANI COMMERCIAL & TAX DIVISION)
MISC. APPLICATION NO. 324 OF 2010

IN THE MATTER OF ALLAN DISTRIBUTORS LIMITED

AND

IN THE MATTER OF THE COMPANIES ACT (CHAPTER 486 LAWS OF KENYA)

R U L I N G

This ruling relates to a notice of motion application brought under section 102 of the Companies Act, Chapter 486 of the Laws of Kenya. It seeks the following orders

1. THAT the applicant's Notice of Motion brought under Section 102 of the Companies Act Chapter 486 of the Laws of Kenya be heard during the High Court vacation.
2. THAT this Honourable Court be pleased to grant an Order pursuant to section 102 of the Companies Act (Chapter 486) that the time for registration required by Section 96 of the said act, in the matter of the Further Charge dated the 21st day of July 2009 and made between ALLAN DISTRIBUTORS LIMITED of one part and K-REP BANK LIMITED of the other part relating to all the assets of the said company of whatsoever nature and wheresoever situate charged under the Further Charge to secure repayment of the sum of Kenya Shillings Three Million (Kshs.3,000,000/=) be extended for forty two (42) days from the date of the Order to be made thereon.

During the hearing of the application, the applicant's counsel Mr. Nyamogo Ochieng' submitted that they were applying for enlargement of time to ensure compliance with section 96 of the Companies Act. Besides the above, he submitted that the further charge is 21st July 2009 and that the same has been annexed to their affidavit. Further to the above, he also submitted that they were relying on his affidavit dated 12th April 2010. According to the learned counsel the non-compliance with section 96 was due to inadvertence by the applicant's counsel. Despite the fact that they have reflected the above in their affidavit, he was of the view that the malfeasance by a counsel should not be visited on his client. He urged this court to look at the matter in that shade. Apart from the above, he also submitted that in the event that the court grants such an order the same will be for the benefit of all the parties since the funds in question are trading funds that will be beneficial to both the creditor and debtor. In conclusion, the learned counsel submitted that the loan has already been granted by the bank.

After carefully considering the application and the annexures, I hereby grant the same in terms of prayer No. 2. Specifically, I hereby direct that the time for registration required by section 96 of the Companies Act, in the matter of further charge dated 21st July 2009 and made between Allan Distributors Limited of

the one part and K-Rep Bank of the other part relating to all the assets of the said company of whatsoever nature and wheresoever situate charged under the further charge to secure repayment of the sum of Kenya shillings Three Million (Kshs. 3,000,000/-) be extended for a period of 42 days from today's date. Those are the orders of this court.

MUGA APONDI
JUDGE

Ruling read, signed and delivered in open court in the presence of:

Ochieng Nyamogo- Applicant's Counsel

MUGA APONDI
JUDGE
11TH MAY, 2010