



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

(MILIMANI COMMERCIAL & TAX DIVISION)

MISC. APPLICATION NO. 337 OF 2010

IN THE MATTER OF SAVINGS AND LOAN KENYA LIMITED

AND

IN THE MATTER OF KENYA COMMERCIAL BANK LIMITED

AND

IN THE MATTER OF THE COMPANIES ACT CAP 486 LAWS OF KENYA

AND

IN THE MATTER OF AN APPLICATION FOR REGISTRATION OF A CHARGE & SECOND CHARGE

UNDER SECTION 96 OF THE COMPANIES ACT CAP 486 LAWS OF KENYA

**SAVINGS AND LOAN KENYA
LIMITED.....1ST APPLICANT**

**KENYA COMMERCIAL BANK
LIMITED.....2ND APPLICANT**

VERSUS

**S.A.M. COMPANY
LIMITED.....RESPONDENT**

RULING

This ruling relates to a notice of motion application brought under Companies Act Section 96 and 102 of the Companies (High Court) Rules L.N. 312/1964. It seeks the following orders

1. THAT this matter be certified as urgent and be heard exparte.
2. THAT the time for registration under section 96 of the Companies Act of the Charge and Second Charge particulars whereof are given herewith BE EXTENDED by 40 days from the date of the order to be made herein.

During the hearing of the application, the applicant's counsel, Ms. Ogulla submitted that her client has already disbursed a total of Kshs. 71 million to the respondent pursuant to a charge dated 23rd October, 2008 and the second charge of 26th October, 2009. Further to the above, she also submitted that the applicants are in a precarious position as far as their security is concerned due to the non registration of the two charges. It is on that note that she has prayed for extension of time to register the charges. According to the learned counsel, the reason for the delay is that the Directors of the Chargor have been out of the country and only came back in January 2010. Unfortunately by that time the statutory period of 42 days had already lapsed.

After carefully considering the application together with the anenxtures, I hereby grant the same in terms of prayer no. 2. Specifically, I hereby direct that the time for registration under section 96 of the Companies Act of the charge and second charge whose particulars are given herewith, be extended by 40 days from today's date. The said charges are as follows:

(a) A Charge on Title Number I.R. 91371 (being Land Reference Number 37/37 made on the 30th day of April 2008 between **S.A.M. COMPANY LIMITED** (the Respondent) Therein referred to as "the Chargor") of the one part and **SAVINGS AND LOAN KENYA LIMITED** (the 1st Applicant) (therein referred to as "the Lender") of the other part.

(b) A Second Charge on Title Number I.R. 91371 (being Land Reference Number 37/37 made on the 26th day of October 2009 between **S.A.M COMPANY LIMITED** (the Respondent) (therein referred to as "the Chargor") of the one part and **KENYA COMMERCIAL BANK LIMITED** (the 2nd Applicant) (therein referred to as "the Lender") of the other part.

Those are the orders of this court.

MUGA APONDI
JUDGE

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

Ms. Ogulla - Applicant's Counsel

MUGA APONDI
JUDGE
3RD MAY, 2010