



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
(MILIMANI COMMERCIAL & TAX DIVISION)
WINDING UP CAUSE NO. 13 OF 2010

IN THE MATTER OF STANDARD ASSURANCE KENYA LIMITED

AND

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

AND

IN THE MATTER OF INSURANCE ACT (CHAPTER 487) LAWS OF KENYA

RULING

On 21st June, 2010 the Applicant through its advocates, Kwengu & Co. Advocates filed a notice of motion. The same has been brought under Section 1A, 1B, 3A, 63(e) of the Civil Procedure Act, Companies Act, Insurance Act and all enabling provisions of the law and it seeks the following orders:

- 1. THAT service of this application be dispensed with in the first instance owing to its urgency.**
- 2. THAT pending the hearing and determination of this application this Honourable court be pleased to stay the Winding proceedings herein and cancel the Winding up advertisement made in the Daily Nation of 16th June 2010.**
- 3. THAT pending the hearing and determination of this application this honourable court do order the Commissioner to publish within seven days a notice in the Daily Nation canceling the winding up proceedings advertised on the 16th June 2010 and the moratorium extended on 11th June, 2010 and in default the Applicant do publish the same at the Commissioner of Insurance expense.**
- 4. THAT this honourable court be pleased to strike out the proceedings herein.**
- 5. THAT cost of this application be provided for.**

The application is supported by the grounds on the face of the same. In addition to the above, the application is also supported by the supporting affidavit of Mr. Wilson Kipkoti. After considering the petition which has been filed by the Commissioner of Insurance it is apparent that this court delivered a ruling in relation to the Standard Assurance Kenya Limited on 11th June, 2010. The same related to Miscellaneous Application No. 213 of 2010. The said ruling was very clear and gave specific instructions and directions to the Commissioner of Insurance to comply. It is not clear to this court whether the Commissioner of Insurance was aware of the said ruling and whether the counsels on record had actually informed him about the same. No doubt this court cannot make orders in vain and thereafter one of the parties comes to the same court to seek other orders. I hereby direct that a copy of the said ruling be

forwarded to the Commissioner of Insurance to enable him to comply with the same. The Deputy Registrar, Milimani Commercial Court to ensure that this order is complied with. In the event that the Commissioner of Insurance is aggrieved by that ruling, then it is incumbent upon him to follow the necessary and laid down procedures and appeal against the same. He cannot purport to ignore what the court decided.

In view of the above analysis, I hereby stay the Winding Up proceedings for 14 days and also cancel the Winding Up advertisement made in the Daily Nation of 16th June, 2010. Secondly, pending the hearing and determination of this application, I do hereby order the Commissioner of Insurance to publish within 14 days a notice in the Daily Nation canceling the Winding Up proceedings advertised on 16th June, 2010 and in default the applicant do publish the same. As far as the moratorium is concerned, this court hereby stands by the ruling that it delivered on 11th June, 2010.

This court has also carefully considered the 2nd application dated 18th June, 2010 which has been brought through notice of motion under section 233, 222 and 225 of the Companies Act and rule 7 of the Companies (Winding up Rules). The said application was filed by the firm of Ochieng', Onyango, Kibet & Ohaga Advocates. The said application is supported by the grounds on the face of the same. In addition to the above, this court has carefully considered the supporting affidavit by Redempta Mwasa who is the applicant's Senior Branch Manager, City Hall Branch. Having done so, I hereby issue a temporary stay for 14 days of execution of attachment, distress or execution proceedings against Account No. 01136093371500 held in the name of Standard Assurance Kenya Limited at the City Hall branch of the Co-operative Bank of Kenya Limited pending the hearing and determination of this application interpartes on 12th July, 2010.

MUGA APONDI

JUDGE

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

Kwengu for Mr. Wilson Kipkoti

Echessa Werimo for Co-operative Bank

MUGA APONDI

JUDGE

29TH JUNE, 2010