

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Winding Up Cause 26 of 2008

GREAT SOUTHERN COACH PLAINTIFF

VERSUS

IN THE MATTER OF COMPANIES ACTDEFENDANT

R U L I N G

The applicant is the company faced by a creditor winding up petition. Notice of motion dated 20/5/09 is brought under **Section 223 (b), 225 Companies Act** and **Civil Procedure Act, Section 3A, 34 and 63 (e), Rule 7 (1) Companies Act, Order 21 Rule 22 (1) and Order 50 Rule (1)**.

The applicant (the Company) seeks orders that pending the hearing and determination of this application the court do order a stay of execution of decree and stay of proceedings in the matters listed under paragraph 2 and 3 and 4 of the motion pending the finalization of the Winding Up Cause. The creditor's petition is for a debt of Kshs.982,187/= only.

The powers of court to stay proceedings is discretionally under **Section 223 of Companies Act**. The supporting affidavit states that for reason of the Winding Up proceedings the company shall not have capacity to proceed with all these suits.

I have perused the lists of cases contained in the affidavit. They are several and must involve sums of money. I am of the view that the interests of so many litigants would be prejudiced if stay was granted and it appears the orders are not sought in good faith.

I find no good reasons adduced to warrant making a stay order. The application is dismissed.

It is so ordered.

DATED, SIGNED and DELIVERED at Nairobi this 17th day of July, 2009.

JOYCE N. KHAMINWA

JUDGE