

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Civil Case 192 of 2009

NZOIA CHEMISTS LTD. 1ST PLAINTIFF

JOHN B. CHEGE 2ND PLAINTIFF

AURELIA ROSE N. CHEGE 3RD PLAINTIFF

JAMES WILLIAM CHEGE 4TH PLAINTIFF

SERAH NJERI CHEGE 5TH PLAINTIFF

VERSUS

KENYA COMMERCIAL BANK LTD. DEFENDANT

R U L I N G

Notice of Motion dated 10/7/09 is brought under **Section 3, 3A** and **63 (e) Civil Procedure Act, Cap.21**. Orders sought are that there be a stay of this suit pending payment of taxed costs in **Suit No. Kitale HCC 83 of 1999**. And that the plaintiffs be ordered to pay the said costs on the ground that taxed costs amount to Kshs.230,766/=. The taxation was by consent of the parties.

Further that the plaintiffs be ordered to pay costs in that suit and to deposit security for costs of this suit with costs of this application. I have considered the application and affidavits filed by the parties. It is proper that the plaintiffs shall pay costs already taxed before taking up fresh suits against the same defendant. I order that this suit be stayed pending payment of the costs Kshs.230,766/=.

No proper application is made for security of costs in this suit. Therefore no order is made. The application is therefore allowed under prayer (b) (c) no security is ordered (d) costs of this application to be paid by the plaintiff.

It is so ordered.

DATED, SIGNED and DELIVERED at Nairobi this 16th day of October 2009.

JOYCE N. KHAMINWA

JUDGE