



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 1936 of 2007

1. Land and Environmental Law Division

Civil Practice and Procedure

2. Subject of main suit - Anti corruption and Economic crimes Act
No.3 of 2003.

Land

i) LR Block 112/354 0.1936 ha

ii) 2nd defendant former Commissioner of Lands

1st defendant Ltd Liability company.

Alleged allocated road reserve

iv) 1st defendant not traced.

3. Application 20 March 2008.

i) Substituted service prayed for against 1st defendant.

4. Held: i) Application granted substituted serviced upon

the 1st defendant through advertisement in the local daily and or affixing a copy of summons on notice board.

5. Case Law

6. Advocate

Y.A. Angima holding brief for S.M. Kimani instructed by Stephen Machira Kimani Advocates for the plaintiff/applicant – present

Steroda Investments Limited 1st defendant – unrepresented.

KENYA ANTI-CORRUPTION COMMISSION APPLICANT

VERSUS

STERODA INVESTMENTS LIMITED 1ST DEFENDANT

SAMMY SILAS KOMEN MWAITA 2ND DEFENDANT

RULING

APPLICATION FOR SUBSTITUTED SERVICE DATED 20 MARCH 2008

1: CIVIL PRACTICE AND RPCOEDURE.

1. The Kenya Anti-Corruption Commission (the plaintiff/applicant herein) sued M/s Steroda Investment (the 1st defendant herein) under the Anti-corruption and Economic crimes Act No.3 of 2003 for the alleged recovery of land LR Block 112/354 0.1936 ha that had been reserved as a road by pass but alienated to it by Sammy Silas Komen Mwaita, (the 2nd defendant/respondent herein) in his capacity as the Commissioner of Lands.

2. The physical address of the 1st defendant, the directors and their last known address was not traced. The Civil Procedure Act requires that the 1st defendant be served through their director secretary of the company failure to their last known address. In this matter there has been no response.

3. The 1st defendants physical address registered office was described as LR 209/5410 Wabba Std Nairobi and the postal address P.O. Box 30197 Nairobi. On investigations, the physical address was not traced. The postal address belonged to the University of Nairobi. The listed two directors Rafusigu (P.O. Box 30197 Nairobi) and Tobias Olela (P.O. Box 1912 Kisumu) were not traced.

4. Summons to enter appearance and service of the same is required to be so served within 24 months.

II: Prayer

5. The plaintiff applicant prays that service be effected by an advertisement in the local daily newspapers and by a notice on the court house.

III: Held

6. I find that the plaintiff/applicants have been unable to trace the 1st defendant as illustrated in the annexure to the application. I hereby grant the application as prayed and hereby order that the plaintiff place an advertisement in the Nation Newspaper and the Standard Newspaper on and any Thursday.

That a further notice be displaced on the courts main notice board and the board next to court No.6 High Court Nairobi. The appearance to be filed within 21 day of the advisement. That the costs be in the cause.

DATED THIS 15TH DAY OF APRIL 2008 AT NAIROBI

M.A. ANG'AWA

JUDGE

Y.A. Angima holding brief for S.M. Kimani instructed by Stephen Machira Kimani Advocates for the plaintiff/applicant – present

Steroda Investments Limited 1st defendant – unrepresented.

Makhandia and Makhandia Advocate for the 2nd defendant - absent