



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

Civil Suit 53 of 2002

HOLDER **SILVESTER INDUSTRIES NAIROBI LIMITED.....DECREE**

VERSUS

SAGA INDUSTRIES LIMITED JUDGMENT DEBTOR

AND

GRACE WAINAINAOBJECTOR

RULING

The Objector with the Notice of Objection dated 27th March 2008 filed under **Order XXI rule 53** of the **Civil Procedure Rules**, through her Advocate, Alexandra Kinyanjui & Co. Advocates, wrote to the court requesting that this file be placed before the court for directions. When the parties came before me for directions, the Objector's Advocate and the Judgment Debtor's Advocate agreed to file submissions to explain what directions were being sought from the court.

I have now received and read submissions by both Counsel. It is clear to me that both Advocates are in agreement in regard to the issue at hand. It has been shown, and I have confirmed from the record of these proceedings that a Prohibitory Order was issued by this court on 30th April, 2007, prohibiting the Judgment Debtor from transfer or charging the property known as Limuru Town Plot No. 185. The same order also directed that the property be sold to satisfy the decree in this suit of Kshs. 920,011.85 together with the interest thereon.

Thereafter a Notification of Sale was issued for the sale of the said property and the conduct of the execution by sale assigned to MUHATIA PALA AUCTIONEERS. I note from the file that the said auctioneers wrote to the court, a letter dated 31st March, 2008 in which he acknowledged receipt of a cheque of Kshs.900,000/- of even date drawn by Messrs Bowry & Co. Advocates in full and final settlement of the decretal sum, interest and costs by the Judgment Debtor to the Decree Holder. He concludes by stating that the sale of the plot Limuru Town Plot No. 185 was therefore cancelled.

I also note from the file that by a letter dated 12th May, 2008, MUHATIA PALA AUCTIONEERS wrote to the Deputy Registrar and returned the Notification of Sale issued to him to the court on the grounds that the two parties in the instant suit had entered into negotiations.

Having confirmed all these details, I am satisfied that the Prohibition Order issued by this court on 30th

April, 2007 has outlived its usefulness. The said Prohibitory Order is hereby raised.

Dated at Nairobi this 9th day of October, 2008.

LESIIT, J.

JUDGE

Read, signed and delivered, in the presence of:

Mr. Naeku holding brief for Mr. Kinyanjui for Objector

N/A for Mr. Gitao for Judgment Debtor

LESIIT, J.

JUDGE