

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

Civil Case 423 of 2005

TANGANYIKA INVESTMENTS OIL & TRANSPORT COMPANY LTD.....PLAINTIFF

VERSUS

MOBIL OIL KENYA LTD. & 6 OTHERSDEFENDANT

RULING

Before me is an application by the 2nd and 3rd defendants primarily for security for costs expressed to be sought, under Order XXV Rules 1, 5 (1), 6 and 7 (1) of the Civil Procedure Rules Sections 3 and 3A of the Civil Procedure Act and all enabling provisions of the law. The application which is supported by an affidavit sworn by one Stephen Kiiyuru Mbugua, the legal officer of the 1st defendant is based on the grounds that the plaintiff is a limited liability company incorporated in the Republic of Tanzania and that it has no known assets within the jurisdiction of this court.

The plaintiff did not file grounds of opposition or a replying affidavit. There was also no appearance for it at the hearing of the application on 20.3.2007 despite service of the application having been made upon its advocates and in the event the application was heard ex parte.

On the basis of the evidence presented on behalf of the 2nd and 3rd defendants in this matter, I am satisfied that they are entitled to the orders sought. Accordingly, I make the following orders:-

- (1). The plaintiff do provide security for the 2nd and 3rd defendants' costs of this suit in the sum of Kshs.8,112,180.00 within thirty (30) days of service of this order.**
- (2) Such security be in the form of a performance bond provided by a reputable financial institution or a cash deposit in the joint names of the advocates for the plaintiff and the 2nd and 3rd defendants.**
- (3) If the said security for costs is not given within the period stipulated above, the 2nd and 3rd defendants are at liberty to apply for the dismissal of the suit as against them.**
- (4) In the interim all further proceedings of this suit are stayed.**
- (5) The plaintiff do pay the 2nd and 3rd defendants' costs of this application.**

Orders accordingly.

DATED and DELIVERED at NAIROBI this 8th day of May 2007.

F. AZANGALALA

JUDGE

Read in the presence of:- Adipo holding brief for Anim for the 2nd and 3rd defendants/applicants.

F. AZANGALALA

JUDGE