

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

Civil Case 4769 of 1988

**JAMES GLENN RUSSELL LIMITED.....DECREE
HOLDER**

VERSUS

**RELI CO-OPERATIVE SAVINGS & CREDIT SOCIETY.....
.....DEFENDANT**

RULING

The Decree Holder by way of this Chamber Summons Ex parte expressed to be brought under Order XXII Rule 1 and 10 of the Civil Procedure Rules seeks orders:

1. That all the monies which the Kenya Railways Corporation (herein referred to as “The Garnishee” owes the Judgment Debtor Reli Co-operative Savings & Credit Society, in collected by unremitted members’ monthly subscriptions be attached to answer the decree together with the costs of this application.
2. That the granting of this application operate as a stay of any remittance the Garnishee is obliged to make to the Judgment Debtor until all monies that the Judgment Debtor owes the Decree Holder by way of decretal amount together with costs and interest be fully paid to the Decree Holder
3. That costs be provided for.

The application is premises on the grounds that by the decree of this court given on 30th July 2004 and issued on 18th February 2005 the Judgment/Debtor was ordered to pay the Decree Holder the sum of Ksh.6,740,032.90 as at 28th February 2005 that, the sum as at 28th February 2006 has now become Ksh.7,548,836.90, that on 21st December 2005 the costs of this suit was taxed at Sh.207,220/=.

That both the decretal amount and taxed costs have not been paid. That the Judgment Debtor has no attachable assets and also has no known bank account. That the Judgment Debtor relies on its income on remittance from the Garnishee which the Garnishee deducts from the Garnishee’s employees who are members of the

Judgment Debtor. That although the Garnishee has over the years deducted the monthly subscriptions of the Judgment Debtors members, it has failed to remit the same to the Judgment Debtor. That in the circumstances it is only fair and just that the Garnishee be ordered to pay the Decree Holder all monies that the Judgment Debtor owes the Decree Holder from these unremitted deductions and any further deductions until the decree is fully satisfied.

The application is also supported by a sworn affidavit of LIVINGSTONE MAINA OMBETE sworn on 3rd February 2006 in which he avers on similar facts as those contained in the grounds of the application.

Mr. Ombete counsel for the Decree Holder urged the court to grant orders as prayed in the Chamber

Summons dated 3rd February 2006 and filed in court the same day.

The application is ex parte and has been proved and the same is allowed in terms of prayers 1, 2 and 3 of the Chamber Summons (ex parte) dated 3rd February 2006.

Dated and delivered at Nairobi this 28th day of March 2006.

J.L.A. OSIEMO

JUDGE