



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL DIVISION, MILIMANI**  
**CIVIL SUIT 241 OF 2002**

**ROT-MEI LIMITED.....PLAINTIFF/APPLICANT**

**VERSUS**

**INTERSTATE 2000 LIMITED.....1ST DEFENDANT/RESPONDENT**

**SULEIMAN MBARUKT/a TAWFIQ BUS SERVICE .....2ND DEFENDANT/RESPONDENT**

**and**

**AL-KHALEEJ TRANSPORTERS LTD.....1ST OBJECTOR/RESPONDENT**

**FALCON COACH LIMITED.....2ND OBJECTOR/RESPONDENT**

**TAWFIQ BUS SERVICES LTD TANZANIA.....3RD OBJECTOR/RESPONDENT**

**SAID SLEYYUM.....4TH OBJECTOR/RESPONDENT**

**R U L I N G**

When the plaintiff's application dated 27th May 2005 came for hearing before me on 3rd October 2005, the defendants and objectors counsels were not present even though the date had been fixed, by consent at the registry.

Plaintiff's counsel argued the said application and sought prayers No. 2 to 6 thereof. The main prayers sought, prayed for the 2nd defendant and directors of the 1st defendant be examined under oath on the assets of the defendant companies.

The plaintiff has judgment against the defendants which to date has remained unsatisfied. That being the case and in view of matters deponed to in the plaintiff's affidavit in support of that application, the application is merited.

The plaintiff has also sought stay of the objection proceeding due to be heard on 13th October 2005. There was no sufficient reason given why such stay should be granted, the plaintiff failed to show what prejudice it would suffer if the same was heard. I therefore find that that prayer is not merited.

The other prayer sought by the plaintiff was that the 1st, 2nd and 3rd Objector be prohibited from transferring the shares held by and in the names of Mohamed Rashid Mbaruk and Mohamed Suleiman Rashid or receiving dividen thereof. What this prayer seem to seek is that the objectors be prohibited from transferring the defendant's shares, thereof and from remitting any dividens due and payable to the defendant.

The plaintiff's supporting affidavit, sworn by Adi Vinner, has clearly and elaborately shown, that the defendants have been transferring or divesting their assets, with a view to defeating the decree hereof. In view of the averment thereof it is in the interest of justice and just to order that there be a prohibition such as that, which is sought by the plaintiff.

The order of this court is in the following terms: -

- (1) That MOHAMED SULEIMAN MBARUK, MOHAMED RASHID MBARUK and MOHAMED SULEIMAN RASHID do attend court at a date to be obtained at the registry for examination on oath on the whereabouts of the assets of the defendants herein.**
- (2) That at such examination the said MOHAMED SULEIMAN MBARUK and MOHAMED RASHID MBARUK and MOHAMED SULEIMAN RASHID do produce all of the defendants' books of accounts and more specially the audited accounts covering the period of February 2002 to December 2003 and other documentary evidence showing this period.**
- (3) That the said examination under Oath is to be conducted before the Honourable Deputy Registrar of this court.**
- (4) That the 1st, 2nd and 3rd Objectors be prohibited from transferring or giving out the dividends of the shares held by and in the names of MOHAMED RASHID MBARUK and MOHAMED SULEIMAN RASHID.**
- (5) The half costs of the application dated 27th may 2005 are awarded to the plaintiff as against the defendants.**

Dated and delivered this 7th October 2005.

**MARY KASANGO**

**JUDGE**