



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
Civil Case 279 of 2000

ELOF HANSSON.....PLAINTIFF

VERSUS

JETHA & SONS LIMITED.....DEFENDANT

R U L I N G

There has been numerous applications made hereof seeking orders, against the director of the judgment debtor company to supply books of account to enable the decree holder to carry out cross examination of the said director. It does seem that despite those applications and the orders that have been made no progress has been made. In view of the non production of the necessary accounts and books of accounts the court by its ruling delivered on 20th December 2004 lifted the suspension of a warrant of arrest against the director of the judgment debtor company, namely Mr Dinesh Kumar Sojpal Jetha.

The counsel for Mr Jetha made an application to reinstate the suspension of the warrant of arrest. In submitting in support of that application counsel for Mr Jetha stated “.....**the director now has all the books of accounts but did not have all the bank statements**”

The order of the court was that the warrant of arrest be suspended on condition that Mr Jeth supplies the defendant’s books of account, within seven days, and that Mr Jetha present himself before court for cross examination. The court did order that failure to abide by those orders the warrant of arrest would automatically be reinstated and be liable to be executed.

In what now seems to be a ‘*merry go round*’ yet another application by the decree holder seeking the committal to civil jail of Mr Jetha for failing to supply books of account of the judgment debtor, defendant company. It seems that the said Mr Jetha has supplied the decree holder with boxes upon boxes full of invoices receipts vouchers amongst others. These jumbled documents did not assist the decree holder hence the present application.

In response to that argument counsel for Mr Jetha stated that Mr Jetha had supplied all the books in his possession. He further said that what the decree holder sought was “*food and for us to get it chewed for them.*”

Now, the court is of the view of the said Mr Jetha is showing contempt to this court and to this court’s orders. The court will not allow that to be, even by its own inherent power, the court is empowered to put stop to that.

The court cannot continually make orders and more orders, which simply do not receive the response they require. For that reason the court will require Mr Jetha to file in this court within seven days an

affidavit which will answer the following inquiries: -

- (i) Is there in existence a business known as “Jetha & Son”. If so when did it start trading and if it ceased to trade when was the date of such cessation**
- (ii) Is there an incorporated company known as “Jetha & Sons Limited.” If so, attach a certificate of incorporation, and indicate if it is trading, if not when did it cease to so trade.**
- (iii) Which bank accounts and at what banks have “Jetha & Sons” or “Jetha & Sons Limited” operated.**
- (iv) Does either Jetha & Sons or Jetha & Sons Limited have any debtors; if so names and addresses to be stated.**
- (v) If Jetha & Sons Limited were trading are there audited accounts for the period of trading. If not, why. Were there balance sheets prepared for Jetha & Sons and/or Jetha & Sons Limited if not, why.**
- (vi) Attach income tax returns of Jetha & Sons and/or Jetha & Sons Limited.**

The court will require the aforesaid be filed and on it being filed the court will invite the parties to further address it on the application dated 6th October 2005 when the court will give its final ruling thereof.

The costs hereof shall be in cause of the application dated 6th October 2005.

Dated and delivered this 30th November 2005.

MARY KASANGO

JUDGE