



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC. CIVIL APPL. NO. 203 OF 2004

IN THE MATTER OF: KENATCO TRANSPORT COMPANY LIMITED (IN RECEIVERSHIP)

AND

IN THE MATTER OF: THE COMPANIES' ACT (CAP 486) OF THE LAWS OF KENYA

AND

IN THE MATTER OF: AN APPLICATION ON THE PART OF PATRICK MAINA KAMAU

THE RECEIVER/MANAGER OF KENATCO TRANSPORT COMPANY LIMITED FOR DIRECTIONS

PURSUANT TO SECTION 348 OF THE COMPANIES ACT (CAP 486) OF THE LAWS OF KENYA

R U L I N G

1. The Applicant herein is Patrick Maina Kamau, joint receiver/manager of Kenatco Transport Company Ltd. 2. He seeks that this court, invoking powers granted by Section 345 of the Companies Act, Cap 486 and Rules 3 and 9 of the High Court Companies Rules should grant him leave to do the following:-

“Sell through public auction or private treaty (but subject to current valuation for forced sale purposes) all that property known as; sub -division number 2362 of Section VI Mainland North, Mombasa and sub -division number 2360 of Section VI, Mainland North, Mombasa.”

3. The reasons are that as receiver/manager, all other properties of Kenatco Trading Company Ltd. have been sold pursuant to a Debenture dated 20th July 1981 save the one mentioned above. The Applicant states in his Affidavit in support that it would serve no purpose if the company is wound up, yet the Debenture has not been satisfied, and there are properties belonging to the company that were not secured by the Debenture.

4. Initially I was not certain that Section 348 of the Companies Act which is with regard to the directions a court can give the receiver, would properly apply here. However, on further reflection I think that invoking that section together with the inherent powers of this court, and reading Clause 11 (1) of the Debenture dated 20.7.1987, I should and I hereby grant the Applicant the prayers sought.

5. This court can give directions regarding the manner in which the remainder of the company's property should be handled and in this case I think that for reasons given by the receiver/manager, the same should be sold. This court in any event can invoke its inherent power to ensure that the receivership comes to a tidy end. 6. In the event then, the Application dated 23rd February 2004 be and is hereby allowed.

7. Costs shall be in the cause. Dated and delivered at Nairobi this 27th day of February 2004.

I. LENAOLA

Ag. JUDGE

27.2.2004

Before Lenaola Ag. J.

Amos CC

Ruling read in the presence of: -

Mr. Wanjohi holding brief for Mr. Kimani for the Applicant.

I. LENAOLA

Ag. JUDGE