



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI COMMERCIAL COURTS**  
**CIVIL CASE NO. 399 OF 2001 (O.S.)**

**IN THE MATTER OF STALLION INSURANCE COMPANY LIMITED (under Statutory  
Management)**

**AND**

**IN THE MATTER OF THE COMPANIES ACT, CAP 486 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE INSURANCE ACT CAP 487 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF AN APPLICATION FOR DIRECTION'S UNDER**  
**SECTION 348 OF THE COMPANIES ACT BY MARSHALL T. OSANYA**  
**(STATUTORY MANAGER STALLION INSURANCE COMPANY LTD.)**

**RULING**

This application has been made ex parte pursuant to Section 348 of the Companies Act, Rules 3, 4 and 9P of the Companies (High Court) Rules, Section 67C of the Insurance Act (as amended), Section 3A of the Civil Procedure Act and Order XXXVI Rule 7 of the Civil Procedure Rules for the following orders:-

***“1. That this Honourable Court be pleased to DECLARE that during the pendency of the MORATORIUM Declared by the Statutory Manger, no execution, attachment and/or garnishee proceedings may issue and/or be procee ded with against he property of the company or monies held in any of its Bank Accounts.***

***2. That the costs of this Application be provide for.”***

The circumstances giving rise to this application are that on 7.12.2000, the Commissioner of Insurance, in exercise of the powers conferred by Section 67C 2(i) of the Insurance Act, appointed Marshall T. Osanya of P. O. Box 55457, Nairobi to be the Statutory Manager of the plaintiff/applicant. As the statutory manager, the duties of Mr. Osanya are, inter alia, to manage the business affairs and property of the plaintiff/applicant pending the determination by the Commissioner of Insurance and the Minister whether to revive the company or to liquidate it in accordance with Section 67C (6) of the Insurance Act as amended by the Insurance (Amendment) Act 1995.

Following the appointment and pursuant to and in exercise of the powers conferred upon him by Section 67C (2) (10) of the Insurance Act, the Statutory Manager declared a moratorium vide Gazette Notice No. 336 dated 19.1.2001 published in the Kenya Gazette issue of same date under which he effectively suspended payment by Stallion Insurance Co. Ltd. to its policy holders and all creditors for a period of six (6) months with effect from the date of publication of the Notice. The purpose of the moratorium was to enable the Statutory Manager discharge his duties under the Act.

According to the affidavit sworn in support of this application, prior to the appointment of the Statutory Manager, the firm of Gikandi Ngibuini & Co. Advocates had obtained judgment in default of defence in H.C.C.C. No. 287 of 2000 at Mombasa which judgment the said advocates had sought to enforce by way

of garnishee proceedings pursuant to which the firm of advocates had obtained an order nisi with respect to deposits of Stallion Insurance Company Ltd. held by Central Bank of Kenya. Likewise, the firm of Akwala & Co. Advocates had obtained an order nisi in a bid to enforce recovery of the sum of Shs.34,494/= in Kakamega C.M.C.C. No. 637 of 1996.

The Statutory Manager complains that there have been various similar attempts made in various parts of the country to attach the property of the plaintiff/applicant and the said garnishee orders have made it impossible for the him to discharge his duties as Statutory Manager. He therefore seeks directions of this court under Section 348 (1) of the Companies Act as a manager of the property of the plaintiff/applicant in the nature sought in the Originating Summons dated 16.3.2001.

On the basis of what is contained in the application as well as the evidence disclosed in the supporting affidavit sworn by the Statutory Manager and also on the basis of the submissions made by learned counsel for the applicant, I am satisfied that the plaintiff/applicant is entitled to the orders sought in this Originating Summons. Accordingly, the application is allowed as prayed. Costs of the application to be borne by the plaintiff/applicant.

**Dated at Nairobi this 6th day of April, 2001.**

**T. MBALUTO**

**JUDGE**