



**Assets Recovery Agency v Flutterwave Payments Technology Ltd & 2 others (Anti-Corruption and Economic Crimes Civil Suit E044 of 2022) [2024] KEHC 9 (KLR) (Anti-Corruption and Economic Crimes) (10 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 9 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**ANTI-CORRUPTION AND ECONOMIC CRIMES**

**ANTI-CORRUPTION AND ECONOMIC CRIMES CIVIL SUIT E044 OF 2022**

**NW SIFUNA, J**

**JANUARY 10, 2024**

**BETWEEN**

**ASSETS RECOVERY AGENCY ..... APPLICANT**

**AND**

**FLUTTERWAVE PAYMENTS TECHNOLOGY LTD ..... 1<sup>ST</sup> RESPONDENT**

**HUPEZ SOLUTIONS ..... 2<sup>ND</sup> RESPONDENT**

**ADGURU TECHNOLOGIES LIMITED ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. By a Miscellaneous Application, the Assets Recovery Agency (ARA) the Applicant herein obtained from this Court, preservation orders; freezing certain of the Respondents’ respective Bank Accounts. The orders were issued on 19<sup>th</sup> August 2022. Thereafter the Applicant filed this forfeiture suit; urging the forfeiture to the Kenya Government, of all the funds on those Accounts for being proceeds of money laundering and economic crime.
2. Later, on the affidavits of its officers, Brigadier (rtd) Alice Mate (its Director) and Corporal Isaac Nakitare (its Investigations Officer), this Court vide a Ruling delivered on 9<sup>th</sup> November 2023 allowed the Applicant to withdraw the suit.
3. Thereafter the Respondents filed two Applications for the unfreezing of those bank accounts and the release of the funds earlier frozen thereon. The first one is the Notice of Motion dated 21<sup>st</sup> November 2023, and which was filed by Hupezi Solutions the 2<sup>nd</sup> Respondent. The second one is the motion dated 27<sup>th</sup> November 2023 filed by the 1<sup>st</sup> Respondent Flutterwave Payments Technology Ltd.



4. Despite having voluntarily and on its own volition withdrawn the forfeiture suit against the Respondents and therefore discharged them, and consequently those frozen funds from forfeiture, the Applicant has purported to in earnest now oppose the release of the said funds. This is despite there being no other forfeiture proceedings in respect of those funds.
5. I find the said purported opposition by the Applicant (or its officers) not only ironical, but also pretentious, mischievous and insincere. Such a litigational facade or decoy is inappropriate, an abuse of the court process and an attempt at squandering the scarce judicial time.
6. A party who withdraws a suit should be presumed to know the logical and foreseeable consequences or aftermath of such withdrawal and cannot later start shedding crocodile tears and foolhardily or even naively invite the court to embark on wiping such tears. The shedding of such tears and their wiping ought to be the sole enterprise of such a party. In such tears this Court shall not partake. I therefore have neither hesitation nor difficulties in dismissing the Applicant's said opposition.
7. In consequence therefore, I without hesitation hereby allow both Applications (the 1<sup>st</sup> Respondent's Motion of 27/11/2023 and the 2<sup>nd</sup> Respondent's Motion dated 27/11/2023), to the extent that the preservation/freeze orders hitherto subsisting are hereby discharged and the said funds be released to the Respondents forthwith, unless they are otherwise the subject of any other or different preservation/freeze orders, other than the ones issued by this Court on 19<sup>th</sup> August 2022. Each party to bear its own costs of these Applications. It is ordered accordingly.

**DATED AND DELIVERED THIS 10<sup>H</sup> DAY OF JANUARY 2024.**

**PROF (DR) NIXON SIFUNA**

**JUDGE**

Delivered in the presence of:

Mr Ado for the Applicant.

Mr Gitau for the 1<sup>st</sup> Respondent.

Mr Ougo for the 2<sup>nd</sup> Respondent.

Mr Ndeda for the 3<sup>rd</sup> Respondent

