



**Juja Coffee Exporters Limited & 3 others v Bank of Africa Limited
& another; Adam & 2 others (Interested Parties) (Commercial Civil
Suit 57 of 2016) [2023] KEHC 2892 (KLR) (16 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2892 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
COMMERCIAL CIVIL SUIT 57 OF 2016
DKN MAGARE, J
MARCH 16, 2023**

BETWEEN

**JUJA COFFEE EXPORTERS LIMITED 1ST PLAINTIFF
TSS TRANSPORTERS LIMITED 2ND PLAINTIFF
TSS INVESTMENT LIMITED 3RD PLAINTIFF
TAHIR SHEIKH SAID AHMED 4TH PLAINTIFF**

AND

**BANK OF AFRICA LIMITED 1ST DEFENDANT
KAAB INVESTMENT LIMITED 2ND DEFENDANT**

AND

**ABDULMAJID MOHAMED HAJI ADAM INTERESTED PARTY
SHAMI MOTORS LIMITED INTERESTED PARTY
I.F.I PARADISE PROPERTIES LIMITED INTERESTED PARTY**

RULING

1. This morning this matter was slated for hearing. This date had been fixed by the Court on 15/2/2023. by consent of parties. The parties were to file an application for amendment. Instead they filed an application for recusal. I dismissed the same. They then made another application on 15/3/2023. I dismissed the same today morning. They now seek time to put in compliance documents, amend their plaint and to be ready. They are also saying that one witness has refused to come to court and they need to bring in a witness. They also pray for pre trials conference to be held first.



2. I note that both applications are not merited. However, to avoid driving from a sit of justice, a party and in order to finalize this matter in the best way possible, I make the following orders;
- a. Today's hearing date is vacated and a date be fixed not later than 90 (ninety) days to from today.
 - b. The date fixed for hearing, if the plaintiff is not ready, the suit shall stand dismissed with costs to the Defendants.
 - c. The Defendants will have costs of Kshs. 75,000/= payable before 1/5/2023 being todays costs and traveling and accommodation including Advocates attendance fees, for the Defendants.
 - d. The Plaintiff to file an application for Amendment by 14/4/20223 to be heard on 18/4/2023.
 - e. The Respondent to reply to the same within 7 days of service.
 - f. The Plaintiff to file all referenced statements, paginated list of witnesses and list of documents before 16/4/2023.
 - g. The Defendant to file a list of witnesses and referenced witness statements by 30/4/2023.
 - h. The Plaintiff to pay todays court adjournment fees.
 - i. The suit be heard on 8/6/2023.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 16TH DAY OF MARCH, 2023.
EXTEMPORE, IN OPEN COURT.**

**HON. MR. JUSTICE DENNIS KIZITO MAGARE
JUDGE OF THE HIGH COURT, MOMBASA**

In the presence of:

Billy Kongere and Mr. Gikandi for the plaintiff

Mr. Prestone Wawire for the 1st Defendant

No appearance for the 2nd Defendant

Court Assistant – Firdaus Ndalu

