Denis v Unity Micro Investment Limited (Insolvency Cause 8 of 2021) [2023] KEHC 24534 (KLR) (5 May 2023) (Ruling)

Neutral citation: [2023] KEHC 24534 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MOMBASA

INSOLVENCY CAUSE 8 OF 2021

MN MWANGI, J

MAY 5, 2023

BETWEEN

NGATA MUNYINYI DENIS ..... CREDITOR

AND

UNITY MICRO INVESTMENT LIMITED ..... DEBTOR

RULING

1. The debtor/applicant filed a Notice of Motion dated 31st August, 2021 brought under the provisions of Regulations 6, 15(3), 16, 17(2)(d), 17(3)(a) and 77B of the Insolvency Regulations, 2016, Section 17 (2)(d) of the *Insolvency Act* No. 18 of 2015 and all enabling provisions of the law. It seeks the following orders-

    i. Spent;

    ii. That this Honourable Court be pleased to set aside and/or vary the statutory demand dated 17th August, 2021;

    iii. That this Honourable Court be pleased to issue an order restraining the creditor(s) herein from proceeding to file the intended Insolvency Petition and advertising the intended Insolvency Petition;

    iv. That pending the hearing and determination of the application and/or suit there be a stay of any further statutory demands and/or insolvency proceedings filed against the debtor/ applicant; and

    v. That costs of this application be provided for.

2. The application is brought on the grounds on the face of it and is supported by affidavits sworn on 31st August, 2021 by Jack Mwangi. A director and member of the applicant company and a further

affidavit sworn on 26th October, 2021. In opposition thereto, the respondent filed a replying affidavit sworn on 15th September, 2021 by Ngata Munyinyi Denis, the respondent herein.

3. The application was canvassed by way of written submissions. The applicant's submissions were filed by the law firm of Khaminwa & Khaminwa Advocates on 28th October, 2021, whereas the respondent's submissions were filed on 29th October, 2021 by the law firm of Ndegwa & Sitonik Advocates.

4. Ms. Memia, learned Counsel for the applicant submitted that the creditor filed a statutory demand notice dated 17th August, 2021 seeking payment for Kshs. 57,890,000/=. She referred to Regulations 16 and 17 of the Insolvency Regulations, 2016, which set out the threshold for setting aside a statutory demand notice. She cited the case of Peter Munga v African Seed Investment Fund LLC [2017] eKLR, where the Court held that it is evident that when one reads paragraph (d) of Regulation 17(6) of the Insolvency Regulations, 2016, the grounds for setting aside a statutory demand are not limited by statute.

5. She cited the decision in Re Kipsigis Stores Limited [2017] eKLR and indicated that the statutory demand is dated 17th August, 2021, whereas the application herein was filed on 31st August, 2021, and as such, this Court has the discretion to set aside the said statutory demand since the application herein was filed within the statutory period of twenty-one days. Ms. Memia submitted that the amount stated in the statutory demand is disputed since the respondent had not proved beyond reasonable doubt that the applicant had refused to pay the said amount in order for the company to be declared insolvent.

6. She stated that the applicant's assets exceed the debt due and that the applicant had on various occasions sent correspondence to the respondent informing him that the amount would be paid, but the respondent in bad faith and contrary to Article 159(2)(c) of *the Constitution* of Kenya, 2010, had failed to exercise reasonable measures to allow the applicant to make the said payment despite the fact that there exists a business relationship between it and the respondent, with the respondent being an investor in the applicant company. Ms. Memia contended that the suit herein is only meant to discredit the image of the applicant, a micro-finance company that has been operating for seven (7) years and has been paying all the investors during the said period, save for when the Covid-19 Pandemic affected and halted business operations.

7. The applicant's Counsel relied on the case of Invesco Assurance Company Limited v Dama Charo Nzai & 57 others [2019] eKLR and submitted that the applicant's books of accounts and the financial statement show the applicant has been operating well and has assets that exceed the debt being claimed by the respondent, which has been due to the high interest rate. The applicant stated that it can and is able to pay the debt in issue but the respondent has refused to engage in any negotiations. Ms Memia pointed out that the applicant does not dispute the debt herein.

8. She referred to clause 18 of the Investment Funding Agreement dated 6th May, 2021 and submitted that the respondent had not exhausted the alternative dispute mechanism provided for therein before serving the applicant with a statutory demand. She relied on the decision in Re Kenya Airfreight Handling Limited [2021] eKLR and stated that the applicant has assets and securities that can enable it settle the debt in issue and as such, this Court should issue an interim order to protect the applicant from liquidation proceedings being undertaken as the applicant has shown exceptional circumstances that it should not be declared insolvent.

9. Mr. Sitonik, learned Counsel for the respondent submitted that the parties herein entered into an Investment Agreement dated 6th May, 2021 where the applicant was contractually expected to pay the respondent a sum of Kshs. 57,890,000/= on or before 30th July, 2021. In submitting that there exists a debtor-creditor relationship between the parties herein, and that such a relationship does not warrant

the striking out of the statutory demand, he relied on the case of Success Electronic and Transformer Manufacturer Limited v Kilewah Electro Hard & Electronics Limited [2020] eKLR.

10. He cited Regulation 17(6) of the Insolvency Regulations and submitted that the applicant had not satisfied the conditions therein since it had not filed a counter-claim, set-off or cross-demand against the respondent. He stated that the applicant's claims are only designed to extend time for payment of the debt as can be seen from paragraphs 15, 16 & 18 of its affidavit in support of the application.

11. Mr. Sitonik indicated that the applicant does not dispute the debt and the fact that it has defaulted in its repayment. He submitted that the applicant had not claimed fraud, undue influence or coercion thus it is bound by the terms of the Investment Agreement. He submitted that the applicant had not tendered any evidence to warrant the Court to conclude that the sums due are disputed in any material sense thus estopped from alleging that the debt herein is exaggerated. He relied on the cases of Philip Muturi Mwangi v Pauline Wanjiru Nyamu [2021] eKLR and Peter Munga v African Seed Investment Fund LLC (supra).

12. The respondent's Counsel stated that the Investment Agreement did not provide for any form of security for the debt and that the said debt was not secured by any security. He further stated that even where a debt is secured, a creditor is not obliged to resort to the security for recovery of the debt. He relied on the Court of Appeal decision in Barclays Bank of Kenya v Kepha Nyabera & 191 Others [2013] eKLR, where the Court stated that the general rule is that a secured creditor is not obliged to resort to his security, as he can claim repayment by the debtor personally and leave the security alone or he can sell the charged securities or set off or combine accounts. He submitted that all these remedies could be exercised at any time or times, simultaneously or contemporaneously or successively or not at all.

13. Mr. Sitonik cited the case of Peter Munga v African Seed Investment Fund LLC (supra) and stated that where the debt is secured with some form of security, failure to indicate such, does not invalidate the statutory notice. He submitted that the applicant's disposition that the respondent failed to engage it as per clause 19 of the Investment Agreement for purposes of resolving the issue of default is misconceived since the respondent has demonstrated that there was numerous correspondence that was exchanged between the parties in an attempt to resolve the issue of default before the initiation of the insolvency process. He stated that the payment date was rescheduled from 30th July, 2021 to 6th August, 2021 and then to 10th August, 2021. He submitted that the respondent fully complied with the provisions of clause 18 of the Investment Agreement.

14. He stated that pursuant to clause 19 of the Investment Agreement, the respondent had the choice of taking up Court proceedings where there was no mutual agreement on the dispute within seven (7) days of the start of the dispute, or where the negotiations collapsed or failed for any reason whatsoever. He submitted that the respondent had demonstrated that an attempt at an amicable settlement as per the Investment Agreement failed thus necessitating the Court process. Mr. Sitonik stated that since service of the statutory demand, the applicant had not made any attempts to make payments

Analysis and Determination.

15. I have considered the application herein, the affidavits filed in support thereof, the replying affidavit by the respondent as well as the written submissions by Counsel for the parties. The issues that arise for determination are-

    i. Whether there is a conflict of interest as the Advocate on record for the respondent represented both the applicant and the respondent in the Investment Agreement dated 6th May, 2021; and

ii. If the application herein is merited.

16. In the affidavit in support of the instant application, the applicant averred that the respondent is the company investor and entered into an investor's agreement dated 6th May, 2021, with the company's directors being the guarantors, and the applicant herein obtained Kshs. 42,000,000/= from the respondent on 30th April, 2021, which was to be repaid in the sum of Kshs. 57,890,000/= inclusive of interest, on 30th July, 2021. The applicant averred that it disputes the said amount.

17. It was stated by the applicant that it has assets in the form of the company's debtors amounting to Kshs. 37,000,000/= and other assets worth more than the respondent's debt and it does not consider itself to be insolvent. It contended that it is capable of paying the respondent the amount claimed. It also contended that the respondent has failed to establish sufficient grounds upon which the respondent can sustain the insolvency proceedings as against the company.

18. The applicant averred that no Auditor's report had been obtained by the respondent to establish that the company is incapable of meeting its debts. It stated that on 17th August, 2021, it received a statutory demand from the respondent for the sum of Kshs. 57,890,000/= to be paid within twenty-one days. It stated that it would not be able to pay the whole sum within such a short period as it would be a miscarriage of justice upon the applicant. It further contended that the said statutory demand did not comply with the provisions of Regulation 17(8) of the Insolvency Regulations, 2016 as it did not indicate that the debt is secured, the nature of the security and the value of the security and that the respondent had made no effort to recover the debt by realizing the security.

19. It deposed that the debt herein was secured by an all asset debenture, equivalent to the value of the borrower's assets of Kshs. 57,890,000/= and the Court could under Regulation 17(6) set aside the demand. It was stated that this Court could set aside the statutory demand. In also stated that from the evidence, it is clear that the applicant has reasonable prospects of paying its debt.

20. The respondent in his replying affidavit deposed that the applicant has neither presented any valid grounds for invalidating the terms and conditions of the Investment Agreement, neither has it claimed to have paid back any portion of the sums received from the respondent or paid any portion of the interest to the respondent. He averred that the accumulated principal amount was Kshs. 42,000,000/=, which was to be refunded to him on or before 30th July, 2021 together with additional accrued commission fees of Kshs. 15,890,000/= totaling to Kshs. 57,890,000/=

21. It was stated by the respondent that no sufficient evidence had been tendered by the applicant in support of the claim that it has assets worth more than the debt owed to him. He stated that the applicant intentionally omitted to submit its books of accounts and credit statements which may as well demonstrate that its debts exceed its total asset value. The respondent further stated that the applicant's claim that it is owed Kshs. 37,000,000/= is not supported by any evidence such as full particulars of the said debtors, the period the specific amounts have been due, the agreements between the applicant and the said debtors since such records may also demonstrate that the said debts are bad debts and do not amount to assets at all. The respondent contended that the further delay in the process translates into more debts since pursuant to clause 11 of the Investment Agreement, the principal amount continues to accrue a penalty interests at the rate of 7% from the date of default to the date of payment.

22. He stated that the applicant has been unable to meet its financial obligations to him. He further stated that on 12th July, 2021, his Advocate on record reminded the applicant via email, the due date of the debt and that on 17th July, 2021 the applicant's directors contacted him on phone and sought for extension of the due date to 6th August, 2021. The respondent deposed that on 19th July, 2021, his

Advocate sent the applicant an email indicating the said extension. The respondent further stated that on 19th July, 2021, the applicant sought for another extension via email from 6th August, 2021 to 10th August, 2021. That vide a letter dated 5th August, 2021, the applicant admitted the debt herein but asked for an indefinite extension.

23. The respondent stated that through a letter dated 6th August, 2021, his Advocate rejected the intended delay by the applicant and that by way of a letter dated 10th August, 2021 the applicant's Advocate indicated that the sums owed to the respondent would be paid, without being definite on the date for payment. It was stated by the respondent that vide a letter dated 13th August, 2021, his Advocate called for further negotiations but at that point, further negotiations were not possible since the debtor was not offering any definite date for payment. The applicant stated that the negotiations collapsed prompting him to invoke the additional provisions of clause 19 which allowed him to seek redress in Court.

24. The respondent deposed that the debt herein was unsecured since there was no security and that Regulation 17(6) & (8) of Insolvency Regulations, 2016 are only applicable to personal bankruptcy and not liquidation of companies, thus not applicable herein. He further deposed that the statutory demand issued was in conformity with the law.

25. The applicant in its further affidavit deposed that it is financially capable of paying the respondent the debt owing but it disputes the said debt as the time period for repayment was very short. It also deposed that the respondent had denied the applicant the opportunity to make proposal for payments, and that the interest was very high. It further deposed that the statutory demand had been instituted prematurely as the applicant is currently undergoing a phase of restructuring, and the respondent has not procedurally followed the law in order to recover the debt.

26. The applicant averred that the Investment Agreement was done by the respondent's Advocate on record and contended that there is a conflict of interest since at the time of preparation of the Investment Agreement, the said Advocate represented both the applicant and the respondent. It stated that the statutory demand is founded in bad faith. It sought to be given three months to make a proposal for payment to the applicant, and six months to pay the respondent and/or investors.

    Whether there is a conflict of interest as the Advocate on record for the respondent represented both the applicant and the respondent in the Investment Agreement dated 6th May, 2021.

27. The main issue between the parties is whether the applicant owes the respondent Kshs. 57,890,000/= as a result of an Investment Agreement entered into by the parties herein. The applicant contended that there exists a conflict of interest since Counsel for the respondent had represented both the applicant and the respondent during the preparation of the Investment Agreement. In the case of Tom Kusienya & others v Kenya Railways Corporation & others [2013] eKLR, Mumbi Ngugi J (as she then was), while addressing a similar issue stated as hereunder –

> "...The legal basis of the petitioner's application in this matter is Rule 9 of the Advocates (Practice Rules) which is in the following terms:
>
> > 'No advocate may appear as such before any court or tribunal in any matter in which he has reason to believe that he may be required as a witness to give evidence, whether verbally or by declaration or affidavit; and if, while appearing in any matter, it becomes apparent that he will be required as a witness to give evidence whether verbally or by declaration or affidavit, he shall not continue to appear: Provided that this rule does not prevent an advocate from giving evidence

whether verbally or by declaration or affidavit on formal or non-contentious matter of fact in any matter in which he acts or appears.'

From the text of this Rule, it is clear that an advocate can only be barred from acting if he or she would be required to give evidence in a matter, whether orally or by way of affidavit. In determining the circumstances under which this Rule would apply, the Court of Appeal in Delphis Bank Limited vs. Channan Singh Chatthe and 6 Others (supra) observed as follows:

> "The starting point is, of course, to reiterate that most valued constitutional right to a litigant; the right to a legal representative or advocate of his choice. In some cases, however particularly civil, the right may be put to serious test if there is a conflict of interests which may endanger the equally hallowed principle of confidentiality in advocate/ client fiduciary relationship or where the advocate would double up as a witness.

The court noted, however, that:

> 'There is otherwise no general rule that an advocate cannot act for one party in a matter and then act for the opposite party in subsequent litigation. The test which has been laid down in authorities applied by this court is whether real mischief or real prejudice will in all human probability result..."

28. Rule 9 of the Advocates (Practice Rules) basically prevents an Advocate from appearing as such in a matter and/or suit in which it is known, or becomes apparent, that the said Advocate will be required to give evidence material to the determination of contested issues before the Court. It is not disputed that the Counsel for the respondent is the one who drew the Investment Agreement dated 6th May, 2021 and also witnessed the signatures of the parties herein upon execution of the said agreement. The respondent however has a right to be represented by an Advocate of his choice in this case Mr. Sitonik, and for a Court to deprive a litigant of that right, there must be a clear and valid reason for so doing. The applicant has not at the very least demonstrated any reasons why Mr. Sitonik should not act for the respondent in this matter, and/or expressed its interest to call him as a witness. Therefore, this Court finds that there is no clear and valid reason for depriving the respondent of his right to be represented by Counsel of his choice.

If the application herein is merited.

29. Under Section 17 of the *Insolvency Act*, a creditor may apply to the Court for a bankruptcy order against a debtor in instances where a valid statutory demand has been served upon the debtor, and the debtor has failed to comply with and/or challenge the said statutory demand within twenty-one days of service since this will mean that the debtor is unable to pay the debt demanded or has no reasonable prospects of being able to pay the debt.

30. Regulation 16(1)(a) of the Insolvency Regulations, 2016 gives the High Court powers to set aside a statutory demand issued under the *Insolvency Act*, 2015 if the debtor makes an application for the same within twenty-one days of service of the statutory demand. Regulation 17(6) of the Insolvency Regulations, 2016 on the other hand provides for grounds under which the Court may grant such an application. The said provisions state as follows-

> " The Court may grant the application if-

a. the debtor appears to have a counterclaim, set-off or cross- demand which equals or exceeds the amount of the debt or debts specified in the statutory demand;

b. the debt is disputed on grounds which appear to the Court to be substantial;

c. it appears that the creditor holds some security in respect of the debt claimed by the demand, and either paragraph (6) is not complied with in respect of the demand, or the Court is satisfied that the value of the security equals or exceeds the full amount of the debt; or

d. the Court is satisfied, on other grounds, that the demand ought to be aside."

31. In determining an application to set aside a statutory demand, the Court has to determine whether the applicant has established either or all the grounds set out under Regulation 17(6) of the Insolvency Regulations, 2016. This Court has to determine the consequences, if any, of setting aside the statutory demand and whether the creditor ought to pursue the bankruptcy proceedings he had initiated rather than defend the present application. See Peter Munga v African Seed Investment Fund LLC (supra).

32. In the application herein, it is not disputed that it was filed within twenty-one days of service of the statutory demand dated 17th August, 2021, since the applicant was served with the statutory demand on the same day. The application herein was filed on 31st August, 2021 which is approximately fifteen-days from the date of service.

33. From the pleadings, it is evident that the applicant does not have a counter-claim, set-off or cross-demand which equals or exceeds the amount of the debt or debts specified in the statutory demand as contemplated under Regulation 17(6)(a) of the Insolvency Regulations, 2016. The applicant averred that the debt in issue is disputed but in its submissions, Ms. Memia stated that the applicant's books of accounts and the financial statement show that the applicant has been operating well and has assets that exceed the debt of the respondent and it can and it is able to pay the debt. She also submitted that the applicant does not dispute the said debt. The applicant in its further affidavit however deposed that it disputes the said debt as the time period for repayment was very short, that the respondent denied it the opportunity to make proposal on payments, and the interest was very high.

34. The applicant does not dispute the existence of the Investment Agreement neither does it assert nor allege that at the time it got into the Investment Agreement, there was an element of coercion, undue influence and/or fraud on the part of the respondent. On perusal of the Investment Agreement, it is evident that the respondent advanced to the applicant Kshs. 42,000,000/= which was to be paid on or before 30th July, 2021, together with interest at Kshs. 15,890,000/=, making a total sum of Kshs. 57,890,000/=. There is no evidence by the applicant that it has paid part of, or the entire sum of Kshs. 57,890,000/=. It is therefore my finding that the debt herein is not disputed on grounds which appear to this Court to be substantial.

35. The applicant also indicated that the statutory demand made was premature since the respondent did not comply with the provisions of clauses 18 and 19 of the Investment Agreement. It is clear from the said provisions that in the event of a dispute between the parties herein, they are required to first attempt to resolve the dispute among themselves in good faith by engaging in negotiations and when parties fail to arrive at an amicable settlement, then the aggrieved party can institute the Court process. The respondent contended that prior to the issuance of the statutory demand herein, parties engaged in negotiations and the respondent extended time within which the applicant was required to repay the said Kshs. 57,890,000/= but the applicant still failed to do so, a fact which is not denied by the

applicant. He further stated that the applicant kept on asking for more time within which to repay the said amount without being definite on the date of payment.

36. The applicant on the other hand urges this Court to set aside the statutory demand issued by the respondent and allow it to make a proposal for payment within three (3) months, and to be given six (6) months to pay the respondent and/or investors. This Court notes that the applicant has not attached to its affidavits in support of the application herein a draft proposal and/or a proposal for repayment of the debt owing to the respondent. From the documents annexed to the respondent's replying affidavit, it is evident that the parties herein engaged in negotiations with a view of reaching an amicable settlement but vide a letter dated 6th August, 2021, the respondent's Advocates gave the applicant a final extension of up to 10th August, 2021 failure to which they would institute vigorous recovery proceedings against the applicant. In light of the foregoing, I am satisfied that the respondent duly complied with the provisions and/or requirements under clauses 18 and 19 of the Investment Agreement.

37. The applicant has also urged this Court to set aside the statutory demand on grounds that it did not indicate that the debt herein was secured, the nature of the security and also the value of the security. In addition, the applicant states that the respondent did not attempt to realize the said security prior to the issuance of the statutory demand. A perusal of the Investment Agreement dated 6th May, 2021, reveals that the debt was secured by two guarantors namely, Kennedy Mue Wambua, and Jack Mwangi Karugu, but the statutory demand made no mention of either the said guarantors.

38. The applicant submitted that the statutory demand was premature since the respondent was duty bound by law to enforce and/or attempt to enforce the guarantee before issuing the said statutory demand. The Court of Appeal in Barclays Bank of Kenya Ltd v Kepha Nyabera & 191 others [2013] eKLR in addressing a similar issue held as follows-

> " The general rule is that a secured creditor is not obliged to resort to his security. He can claim repayment by the debtor personally and leave the security alone. He can sell the charged securities or set off or combine accounts. All these remedies could be exercised at any time or times, simultaneously or contemporaneously or successively or not at all."

39. The Court in the case of Peter Munga v African Seed Investment Fund LLC (supra) when faced with a similar situation stated thus-

> " I would perhaps add that an exception to the general principle would
>
> be allowed where the parties have expressly agreed to the contrary and the security documents themselves stipulate the agreement. The parties must then be held to their bargain."

40. From the holding in the above decisions, it is apparent that the respondent was not bound to first enforce the guarantee before issuing the statutory demand dated 17th August, 2021. He was at liberty to choose when to act and how to initiate recovery of the loaned amount either from the applicant or from the guarantors or recover the same through Court proceedings. Moreover, there was no express agreement by the parties that in the event of default, the respondent would first enforce the guarantee before pursuing any other recovery proceedings. In the absence of such an agreement, this Court finds that the statutory demand issued was not premature as alleged by the applicant.

41. On whether the statutory demand is defective for failing to state the existence of a security, Regulation 17(8) of the Insolvency Regulations, 2016 provides that the debt owed to the creditor, the nature of

the security, its value as at the date of the demand and the net amount claimed are details that should be included in the statutory demand. Regulation 17(6)(c) of the said Regulations, gives the Court the discretion to set aside a statutory demand even where the creditor has not fully complied, but the Court is satisfied that the value of the security equals or exceeds the full amount of the debt.

42. I therefore hold that failure to indicate that the debt was secured and the nature of the security does not make the statutory demand fatally defective since the guarantee by the applicant is equivalent to the debt in issue and the value of the debt has been disclosed in the said statutory demand. The applicant and its guarantors are better placed to demonstrate to this Court that they are capable of repaying the said debt and this can be done during the hearing of the bankruptcy petition. In addition, the Court is still at liberty to set aside the statutory demand in instances where there is adequate security to repay the debt.

43. The applicant urged this Court to set aside the statutory demand since it has assets in form of the company's debts amounting to Kshs. 37,000,000/= and other assets worth more than the respondent's debt, it is not insolvent and that it is capable of paying the respondent the amount claimed. In support of this assertion, the applicant has annexed to its further affidavit a statement of accounts for the years ending 2018, 2019 & 2020. It is trite that he who alleges must prove. In addition, the legal burden of proof lies upon the party who invokes the aid of the law. That is the purport of Section 107(1) of the *Evidence Act* which provides-

> " Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist..."

44. The Investment Agreement was entered into in the year 2021. In order to demonstrate its financial capacity, the applicant has relied on financial statements for the years 2018, 2019 & 2020 which in my view have no probative value to the matter at hand as the said statements apply to periods before the said agreement was entered into. The applicant should have produced before this Court its current books of account and/or account statements to demonstrate to this Court that it has assets and debts whose value are more than the debt owed to the respondent, and that it is therefore capable of repaying the said debt. This Court finds that at this juncture, the applicant has not discharged its burden of proving that it is capable of repaying the said debt. This Court cannot as such set aside the statutory demand on the said ground.

45. The applicant has neither started paying the debt to the respondent nor has it offered a proposal for payment with definite and/or specific timelines. It has not demonstrated to this Court any valid reasons why this Court should exercise its discretion in its favour and set aside the statutory demand dated 17th August, 2021.

46. The upshot is that the application dated 31st August, 2021 is not merited and the same is dismissed with costs to the respondent.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 5TH DAY OF MAY, 2023. RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.

NJOKI MWANGI

JUDGE

In the presence of:

No appearance for the debtor/applicant

Mr. Kago h/b for Mr. Sitonik for the creditor/respondent

Ms B. Wokabi – Court Assistant.