



**Accredo AG v Salama Beach Hotel Limited & 4 others (Civil Suit
118 of 2009) [2023] KEHC 20212 (KLR) (11 July 2023) (Directions)**

Neutral citation: [2023] KEHC 20212 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
CIVIL SUIT 118 OF 2009
SM GITHINJI, J
JULY 11, 2023**

BETWEEN

ACCREDO AG PLAINTIFF

AND

SALAMA BEACH HOTEL LIMITED 1ST DEFENDANT

HANS JUERGEN LANGER 2ND DEFENDANT

ZAHRA LANGER 3RD DEFENDANT

STEFFANO LUCELLI 4TH DEFENDANT

ISAAC RODROT 5TH DEFENDANT

DIRECTIONS

1. What was coming up today before this court is the hearing of the Intended 6th Defendant's application dated November 22, 2022 [the 1st application]. That application sought amongst other orders that the intended 6th Defendant be joined to this suit as the 6th Defendant and leave be granted for the intended 6th Defendant to continue with this suit as a derivative suit. It also appears that all the parties save for the 4th Defendant filed their responses and submissions to that application.
2. Notably, on May 8, 2023, Mr Munyithya, counsel for the 5th Defendant filed another application dated April 25, 2023 seeking to stay this suit pending the determination of Appeal No 28 of 2021. That appeal was filed against Nyakundi J's ruling dated April 6, 2021 in HCCC No 10 of 2019 consolidating this suit with HCCC No 10 of 2019. There are also stay orders in that suit staying that ruling by Nyakundi J. Again, that application was to be mentioned today for directions.
3. However, Mr Karanja, now appearing for the 4th Defendant filed the application dated July 10, 2023 this morning. Essentially, in that application, the 4th Defendant wants this court to recuse itself from any further conduct in this matter.



With this new application filed by Mr Karanja, I find it prudent that the application dated July 10, 2023 takes precedence for reasons that the same concerns would affect my arbiter in this suit. In the circumstances, I direct that;

1. The applications dated November 22, 2022 and April 25, 2023 be stayed in the interim pending the hearing and determination of the application dated July 10, 2023.
2. The 4th Defendant to serve the application dated July 10, 2023 to the 5th Defendant and file their submissions to that application within 7 days from today.
3. The Plaintiff, 1st, 2nd, 3rd and 5th Defendants to file their responses and submissions to the application dated 10/7/2023 within 14 days upon service by the 4th Defendant/applicant.
4. Adjournment is caused by the 4th Defendant who changed the counsel late and gave instructions at a short notice. He should pay today's costs to the Plaintiff, 1st, 2nd and 3rd defendants for travelling and accommodation. I do also condemn him to pay court adjournment fee. Counsels will submit their claims with supporting documents for payment. The counsel for the 5th defendant appeared virtually and court had ordered for physical appearance. He is not entitled to costs. For 6th defendant they are not yet parties and costs at this stage does not apply to them.
5. Ruling on recusal application on July 31, 2023. Further directions on applications dated November 22, 2022 and April 25, 2023 will be given on the said date.

DATED, SIGNED AND DELIVERED AT MALINDI THIS 11TH DAY OF JULY, 2023

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S M GITHINJI

JUDGE

