



Invesco Assurance Company Limited v Charo & 58 others (Insolvency Cause 1 of 2018) [2023] KEHC 21317 (KLR) (20 July 2023) (Directions)

Neutral citation: [2023] KEHC 21317 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
INSOLVENCY CAUSE 1 OF 2018**

**SM GITHINJI, J
JULY 20, 2023**

BETWEEN

INVESCO ASSURANCE COMPANY LIMITED DEBTOR

AND

DAMA CHARO & 58 OTHERS CREDITOR

DIRECTIONS

1. On May 25, 2023, I delivered a ruling dismissing the debtor's application dated June 27, 2022. In that application, the debtor had sought orders inter alia extension of orders for stay of execution of judgment dated May 25, 2022; a review of the interim orders of liquidation and appointment of the interim liquidator and instead the debtor be allowed to submit a scheme of arrangement; the creditors' advocate be ordered to render true and just accounts of all the money received on behalf of the minor claimants and the deceased.
2. I found that application *res judicata* and declined to review the judgment for the reasons expounded in the ruling.
3. Aggrieved by the said ruling, the debtor has now filed another application dated May 30, 2023 seeking orders inter alia that there be a temporary stay of execution of the aforementioned ruling pending the hearing and determination of the present application; and an order for stay pending appeal.
4. On May 31, 2023 when the application was placed before me in the first instance, I directed that the application be served to the Respondent and ordered for stay of execution of the impugned ruling pending the hearing and determination of the present application. I listed the matter for directions on July 17, 2023 when Mr. Kibunja proposed that the application be heard by way of written submissions. Mr. Kilonzo on the other hand stated that the stay being sought could only be granted by the Court of Appeal and not this court. He added that there is no pending appeal and that the stay orders in place should be vacated.



5. I appreciate the arguments advanced by counsels. However, this court has a duty to hear and determine matters on merit. The issues raised by Mr. Kilonzo are substantial. They cannot be determined summarily at this point when the application was only coming up for directions. Parties should be accorded an opportunity to ventilate their arguments in a proper manner. Since Mr. Kilonzo has already filed a response to the application, I direct that the application be heard by way of written submissions.
6. Mr. Kibunja will file written submission within 3 days from today; Mr. Kilonzo to file his within 3 days upon service. Mention on July 31, 2023 to confirm filing of submissions and for a ruling date. This Court so directs.

RULING READ, SIGNED AND DELIVERED VIRTUALLY AT MALINDI THIS 20TH DAY OF JULY, 2023.

.....

S.M. GITHINJI

JUDGE

In the Presence of; -

- 1. Mr Kilonzo for the Respondent**
- 2. Mr Kibunja for the Applicant – absent**

