



Manchester Outfitters Limited v Galot & 4 others; Galot & another (Interested Parties); Manchester Outfitters Limited & 3 others (Plaintiffs to the Counterclaim); Galot (Defendant to the Counterclaim) (Civil Suit 55 of 2012) [2024] KEHC 14720 (KLR) (Commercial and Tax) (15 November 2024) (Ruling)

Neutral citation: [2024] KEHC 14720 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT 55 OF 2012
FG MUGAMBI, J
NOVEMBER 15, 2024**

BETWEEN

MANCHESTER OUTFITTERS LIMITED PLAINTIFF

AND

PRAVIN GALOT 1ST DEFENDANT

RAJESH GALOT 2ND DEFENDANT

GANESH GALOT 3RD DEFENDANT

KEVIN GALOT 4TH DEFENDANT

MANCHESTER OUTFITTERS (EA) LTD 5TH DEFENDANT

AND

MOHAN GALOT INTERESTED PARTY

GALOT INDUSTRIES LTD INTERESTED PARTY

AND

MANCHESTER OUTFITTERS LIMITED PLAINTIFF TO THE COUNTERCLAIM

PRAVIN GALOT PLAINTIFF TO THE COUNTERCLAIM

RAJESH GALOT PLAINTIFF TO THE COUNTERCLAIM

GANESHLAL GALOT PLAINTIFF TO THE COUNTERCLAIM

AND



RULING

1. This Ruling determines the application dated 5th November 2024 filed by 2nd defendant. The applicant sought to have this matter placed before me for directions in view of the orders given by Visram, J on 1st October 2024 in HCCC No.430 of 2012. The Learned Judge made the following orders:
 - i. That in order to avoid a situation where different judges are determining applications that touch on or concern live issues before another court, the parties are referred to mediation to determine which application should be heard before the same Judge.
 - ii. That the principle should be that all subsequent applications should be placed before the original judge dealing with the substantive issue in question.
2. The applicant informs this Court that a mediator has already been appointed and parties are scheduled to appear before the mediator. As such, the applicant prays that this Court does issue directions owing to the fact that there is potential for conflicting decisions being issued by different Courts of concurrent jurisdiction and there is a possibility that after mediation all the files may be brought before one Judge for determination.
3. The application is supported by the affidavit of RAJESH GALOT sworn on 5th November 2024. It is also supported by the 1st and 3rd interested parties via their separate replying affidavits sworn on 7th November 2024 on the grounds that I have already stated.
4. The application is opposed by the 1st interested party through grounds of opposition dated 11th November 2024. The grounds on which the application is opposed are that the Judges in both matters are of concurrent jurisdiction and none of them can superintend over the other, that the claims in HCCC 430 of 2012 are independent and that the said file is not yet ripe for hearing.

Analysis and determination

5. I have considered all the pleadings filed by the parties herein and heard oral submissions made by Counsel on behalf of the parties in support and in opposition to the application herein.
6. On the whole, in determining the appropriate course of action in this matter, I am guided by the constitutional principles set out in Article 159, particularly the instruction that justice shall not be delayed. Additionally, I draw guidance from Sections 1B and 3A of the [Civil Procedure Act](#), which require this Court to administer justice in a manner that is fair, efficient, expeditious, proportionate, and affordable.
7. Regarding the issue raised about the potential for Courts of concurrent jurisdiction to issue conflicting orders in the various matters filed herein, I have carefully reviewed the orders issued by Visram J, as cited by the applicant. I note that the explicit orders of the learned judge were made in relation to the numerous applications still pending in files involving similar parties. With respect to interlocutory applications, I have also taken the liberty of reviewing the Court file in this matter and note that I issued the following orders on 23rd July 2024:

“That meanwhile, there shall be no further interlocutory applications filed in this file save with the leave of this Court. This is in order to manage this matter and avoid an avalanche



of applications in a matter that has otherwise taken excessively long to hear and determine the substantive suit.”

8. While I might have been inclined, based on the above directions, to strike out the present application, I have decided to determine it solely in the interest of finality. However, I must remind the parties that the said directions were issued to facilitate the expeditious resolution of this matter and they remain in force.
9. That said, it is clear that the directions issued by Visram J pertain to the numerous matters with pending applications, where the risk of conflicting decisions in those applications may arise. However, this matter has progressed beyond interlocutory applications and now has hearing dates scheduled. I am therefore of the view that the orders issued by the learned judge do not affect the proceedings in this case.
10. Regarding the issue of the relationship between this matter and HCCC 430/2012, I have already rendered myself in the ruling of 16th September 2024 that all the parties have been aware of the parallel proceedings all this time and have continued litigating as such.
11. I equally take judicial notice of the fact that the Judiciary Case Tracking System (CTS) lists numerous other matters in which the parties herein are litigating under different heads. To ask this Court to then hold this matter in abeyance, when it has already been in the court corridors for over 15 years, merely to await an administrative decision on whether all these matters should be heard before one judge, a decision whose timing and outcome remain uncertain, is, in my view, indefensible.
12. Moreover, the decision on whether all the files should be brought before a single judge is not one for this Court or the parties to make; it is a decision that must be made on merit. Such a determination is neither automatic nor guaranteed and, as such, should not impede the hearing of this matter, which is not, in any case, consolidated with the other matters. If the parties had been intentional about consolidating the matters, they could have easily done so during the lengthy period of litigation that each file has undergone.
13. I have carefully reviewed the complaints submitted by the applicants in respect of this matter as well as HCCC 430 of 2012. It is evident, as noted by the opposing parties, that the parties involved in these cases are distinct, and the reliefs being sought differ significantly. While HCCC 430 of 2012 is the only other matter specifically highlighted by the parties, there has been no clarification or disclosure regarding the status or resolution of the numerous other matters filed within the commercial division and whether the intention is to hold them all in abeyance as well.
14. The totality of the circumstances and the evidence before me leave no doubt that the need to bring this long-standing dispute to a conclusion far outweighs the arguments and considerations put forth by the applicant and the supporting parties.

Disposition

15. For these reasons the application herein is dismissed and each party shall bear their own costs. The matter shall proceed for hearing as scheduled.

DATED, SIGNED AND DELIVERED IN NAIROBI THIS 15TH DAY OF NOVEMBER 2024.

F. MUGAMBI

JUDGE

HCCOMM 55 OF 2012 RULING Page 9

