



**Sasah Contractors Ltd v Jaramogi Oginga Odinga University
of Science and Technology; Equity Bank (Garnishee) (Civil Case
E002 of 2023) [2024] KEHC 14637 (KLR) (20 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14637 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CIVIL CASE E002 OF 2023
DK KEMEL, J
NOVEMBER 20, 2024**

BETWEEN

SASAH CONTRACTORS LTD PLAINTIFF

AND

**JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND
TECHNOLOGY DEFENDANT**

AND

EQUITY BANK GARNISHEE

RULING

1. I have noted the sentiments of the learned counsels herein. It is not in dispute that the Defendant/Judgment debtor was granted leave to file a formal application seeking stay of execution pending appeal. The same has since been filed and is dated 4/11/2024. Learned counsel for the Plaintiff has sought to cross examine the deponent of the affidavit in support of the said application one Kimwele Muneeni before the hearing of the Defendant’s application dated 4/11/2024. The Plaintiff’s counsel has submitted that the reasons for the cross examination is to establish whether the said deponent is an employee of the Defendant and thereafter establish whether the present application is regular.
2. I find the said issue to be quite genuine in that should it be found out that the deponent is not an employee as claimed, the same will have an impact on the Defendant’s application dated 4/11/2024. As counsel for the Plaintiff has indicated that the purpose of the intended cross examination is not to affect the Defendant’s Notice of Appeal to the Court of Appeal, the concerns by the counsel for the Defendants have been assessed and that the Defendant’s Notice aforesaid remains unaffected. As the issue of cross examination is germane to the Plaintiff objection to application, i find that there will be no prejudice suffered by the Defendant if the said deponent is presented to court for the purposes of



cross examination. In any event, a deponent of an affidavit must always be ready and available to be called upon to explain certain issues raised in their affidavits since those issues deponed under oath are matters of evidence.

3. Consequently, I issue the following directions: -
 1. The Deponent in the affidavit in support of the defendant's application dated 4/11/2024 namely Kimwele Muneeni is hereby ordered to appear on a date to be agreed upon by the parties for purposes of cross examination.
 2. Directions on the Defendant's application dated 4/11/2024 to await the outcome of the aforesaid cross examination of Kimwele Muneeni.
 3. Interim orders earlier granted shall be extended to the next date.

RULING DATED AND DELIVERED THIS 20TH DAY OF NOVEMBER, 2024.

D. KEMEI

JUDGE

In the presence of:

Otieno Davidfor Plaintiff

Onsongo.....for Defendant

Bwire.....for Garnishee

Ogendo.....Court Assistant.

