

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CIVIL SUIT NO. E007 OF 2021

ORIGINATING FROM

BUNGOMA HIGH COURT CIVIL CASE NO. 1 OF 2021

NZOIA OUTGROWERS CO. LTD.....APPLICANT/PLAINTIFF

VERSUS

NZOIA SUGAR CO. LTD.....DEFENDANT/RESPONDENT

RULING

1. I have considered the application dated 31st March, 2021 by the Plaintiff/Applicant's counsel for leave to be heard during the recess. I grant leave to the applicant to be heard during the recess.
2. On the application for interim orders pending interpartes hearing, I am satisfied that the application is urgent. I certify it as urgent. I direct the applicant's counsel to serve the Respondents for interpartes consideration on 7/4/2021.
3. On whether I should grant any temporary reliefs, I observe that Prayer No. (d) is in the nature of a mandatory injunction compelling release of the 10% capital levy deducted from farmers' cane proceeds. I am not persuaded that such an order can issue exparte at this stage. I direct that the Prayer be considered interpartes.
4. On the Prayer (c) for restraining the Respondent from withholding capital levy deducted from the farmers' cane proceeds pending the hearing and determination of the application, I observe that this is a matter which can fully be canvassed at the interpartes stage by both parties before an interim relief can issue.
5. In the premises, I decline to issue any interim reliefs and direct that all prayers sought be considered interpartes on 7/4/2020 before Hon. Riechi J.
6. These proceedings and Ruling be typed forthwith and transmitted to the Deputy Registrar, Bungoma High Court forthwith.
7. This file is closed.
8. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA, THIS 1ST DAY OF APRIL 2021

R.E. ABURILI

JUDGE