

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL, COMMERCIAL AND ADMIRALTY DIVISION

CIVIL SUIT NO. E056 OF 2021

DETAN ONDIEK alias DEDAN ONDIEKI.....PLAINTIFF

VERSUS

INVESCO ASSURANCE COMPANY LIMITED.....DEFENDANT

R U L I N G

1. The matter is coming up for interparties hearing of the application dated **2nd July, 2021** which was certified urgent and fixed for interparties hearing today.

2. **Mr. Olwande** appeared for the Plaintiff/Applicant and informed court that they had served the Respondent with the copies of **Notice of Motion** brought under certificate of urgency dated **2nd July 2021**, hearing notice, summons to enter appearance, and all the pleadings herein on **8th June, 2021**. He went on to show the court the **Affidavit of Service** filed in court today which confirms that indeed the Respondent/Defendant was served with the application and pleadings in this case.

3. The Respondent has neither entered appearance nor filed any response. It has not even attended court through its representatives or Counsel. This has led to the Applicant's Counsel to pray for the application to be allowed as presented since the same is unopposed.

4. I have perused the record and confirm the application dated **2nd June, 2021** was certified urgent and served upon the Respondent/Defendant on **8th June, 2021** for interparties hearing today. I also find that the **Affidavit of Service** sworn on **8th June, 2021** confirms that the Respondent/Defendant was served on the even date but neither has the Respondent/Defendant entered or filed a response. It has also not sent any representation to explain all that.

5. In the circumstances, I find the application is unchallenged and allow the same in the terms presented, being, that the enforcement of all Judgments against the Plaintiff/Applicant arising from the accident which occurred on or about 11th day of August, 2012 involving the Plaintiff's **MOTOR VEHICLE REGISTRATION NUMBERS KAA 153P** and **KAZ 880C/ZD 0265** be and is hereby stayed until the hearing and determination of this suit.

RULING SIGNED, DATED AND DELIVERED VIRTUALLY AT MOMBASA THIS 15TH DAY OF JUNE, 2021.

D. O. CHEPKWONY

JUDGE

In the presence of:

Mr. Olwande Counsel for Plaintiff/Applicant

No appearance for and by Respondent

Court Assistant - Winnie