



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION NO. E174 OF 2021

REPUBLIC THROUGH (serious crime unit).....APPLICANT

VERSES

COOPERATIVE BANK.....1ST RESPONDENT

EQUITY BANK.....2ND RESPONDENT

KENYA COMMERCIAL BANK.....3RD RESPONDENT

POSTAL OFFICE SAVINGS BANK.....4TH RESPONDENT

DICKSON NYANGA'AI ABUKA.....5TH RESPONDENT

RULING

1. The Republic through the Senior Crime Unit approached this court through a Notice of Motion filed herein seeking orders as follows:

(a) THAT, the Honourable court be pleased to issue a warrant to the Applicant No. xxxxx PC Patrick M. Muli, an investigator attached to Serious Crime Unit DCI Headquarters (Applicant), or any other investigator attached to and authorized by the Applicant, have access, inspect/investigate, obtain information and carry away certified of bank account opening documents, inward and outward remittance documents INSTRUCTIONS/SWIFT/RTGS/Deposits/withdrawal SLIPS/CHEQUES for the period between 1st March, 2021 to date, and bank account statement for the period between 1st march, 2021 to date in respect of;

i) Account numbers xxxxxxxxxxxxxx in the name of DICKSON NYANG'AI ABUKA domiciled at Co-operative Bank Limited,

(ii) Account Number xxxxxxxxxxx in the name of DICKSON NYANG'AI ABUKA domiciled at Kenya Commercial Bank,

(iii) Account number xxxxxxxxxxxxxx in the name of DICKSON NYANG'AI ABUKA domiciled at Post Office Savings Bank

(iv) Account Number xxxxxxxxxxxxxx in the name of DICKSON NYANG'AI ABUKA domiciled at Equity Bank.

(b) THAT, this Honourable Court be pleased to issue an Order to forbid debiting (withdrawals) or transfer of funds from the account for a period of 60 days pending outcome of interparty hearing on a date to be determined by the court in respect of

(i) A/C No. xxxxxxxxxxxxxx domiciled at Co-operative Bank Limited.

(ii) A/C No. xxxxxxxxxxxxxx domiciled at Kenya Commercial Bank.

(iii) A/C No. xxxxxxxxxxxxxx domiciled at Post Office Savings Bank.

(iv) A/C No. xxxxxxxxxxxxxx domiciled at Equity Bank held in the name of DICKSON NYANG'AI ABUKA respectively.

(c) **THAT**, this Honourable court be pleased to issue an order compelling the managers of

i. Cooperative Bank Limited

ii. Kenya Commercial Bank

iii. Post Office Savings Bank

iv. Equity Bank,

to nominate authorized person(s) to make and give to No. xxxxx PC Patrick M. Muli an investigator attached to Serious Crime Unit DIC Headquarters (applicant), or any other investigator attached to and authorized by the applicant, a certificate of production of electronic evidence under section 106B (4) of Evidence Act in respect of evidence (certified copies) generated electronically or from electronic device(s) that shall be given in compliance with the orders of the Honourable Court.

(d) **THAT**, this Honourable Court be pleased to issue an order compelling managers of

i. Cooperative Bank Limited

ii. Kenya Commercial Bank

iii. Post Office Savings Bank

iv. Equity Bank, to nominate authorized person(s) to record and avail to No. xxxxx PC Patrick M. Muli an investigator attached to Serious Crime Unit DIC Headquarters (applicant), or any other investigator attached to and authorized by the (applicant), a witness statement in view of a valid certified copied and certificate of production of electronic evidence under Section 106B (4) of Evidence Act that shall be given in compliance with order of this Honourable Court and any other relevant information that may aid the applicant to complete desired investigations.

(e) **THAT**, the orders of this Honourable Court be served to the Managers of:

i. Cooperative Bank Limited

ii. Kenya Commercial Bank

iii. Post Office Savings Bank

iv. Equity Bank.

2. The application is based on grounds that No. xxxxx PC Patrick M. Muli of the Directorate of Criminal Investigations Serious Crime Unit is investigating a case of stealing contrary to Section 268 (1) as read with **Section 275** of the Penal Code having arrested the 5th Respondent to be investigated for mobile money fraud having taken advantage of Bonga Everywhere Service System error to redeem Bonga Points valued at Kshs. 12,384,475/= for his own benefit and that of his accomplices; money that was transferred to several bank accounts held in different banking institutions.

3. The application was duly served upon the Respondents. The 5th Respondent in particular having instructed Ms. Kali sought time to file a response that was not forthcoming. The application is therefore unopposed.

4. In the result, a warrant shall issue to No. xxxxx P.C. Patrick M. Muli

5. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY, THIS 3RD DAY OF NOVEMBER, 2021.

L. N. MUTENDE

JUDGE

IN THE PRESENCE OF:

Court Assistant – Mutai

