

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL SUIT NO. 207 OF 2015

TROPICAL WOOD LIMITEDPLAINTIFF

VERSUS

SAMILIS INTERNATIONAL INVESTMENTSDEFENDANT

RULING

1. The court's ruling is informed by the request by the Plaintiff/Decree holder's that, one Peter Odhiambo Ojijo be summoned to appear before the court to be orally examined as to the property/assets and/or the means of the Defendant (to which Mr. Ojijo is a Director) to rectify the decretal sum herein.

2. The request was made vide a notice of motion application dated 17th May 2017 which the court heard and allowed vide a ruling delivered on 14th December 2017. The court record will reveal that the court has set the matter for the examination of the subject director on several dates in vain. At one time an intervening fact arose when the court was informed that a new party by the name of Millicent Oreta had sworn an affidavit as the Managing director of the Defendant Company and alleged that Mr. Ojijo had resigned as the director of the Company.

3. The court then ordered both Ms. Oreta and Mr. Ojijo do appear in court on 5th June 2018 to establish the bona fide director. Subsequently the court was informed that Ms. Oreta had proved uncooperative and disobeyed the court order to appear in court. The court ordered that, if she were to be heard, she ought to purge the contempt of court first.

4. Be that as it were, the availability of Mr. Ojijo continued to pose difficulties as the efforts to trace him have proved futile. He could not easily be traced even at Makadara law courts where he has been charged with a criminal offence.

5. Be that as it may, the court ordered that, fresh summons issue and the matter was stood over to 25th October 2018. On that date, the court was notified orally and/or through an affidavit of service filed in court on 1st October 2018, that Mr. Ojijo had been effectively served. However, as the trial court was not sitting, the matter was stood over to 26th November 2018 with directions that there was no need for fresh service of the summons.

6. On 26th November 2018, neither, the directors nor his lawyer Mr. Ngila appeared in court. The Plaintiff/decree holder, then sought for a warrant of arrest against Mr. Ojijo, as the efforts to trace him proved difficult as aforesaid. I have considered that request against the above background facts, and I find that it has merit. I therefore allow it as prayed. In that case a warrant of arrest will issue as prayed.

8. It is so ordered.

Dated, delivered and signed in an open court this 6th day of February 2019.

G.L. NZIOKA

JUDGE

In the presence of:

Mr. Bundotich for the Plaintiff/decree holder

No appearance for the defendants

DennisCourt Assistant