

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISCELLANEOUS CRIMINAL CASE NO.518 OF 2018

ERICK NGUGI GATIMU.....APPLICANT

VERSUS

EQUITY BANK LIMITED.....1ST RESPONDENT

DIRECTOR OF CRIMINAL INVESTIGATIONS.....2NDRESPONDENT

AND

COMMERCIAL BANK OF AFRICA.....INTERESTED PARTY

RULING

The application before me is for dismissal. The Applicant has not shown or established the source of the funds that were deposited in his account at Equity Bank. *Prima facie*, Commercial Bank of Africa has established that funds which were fraudulently transferred from its accounts may have found its way in the Applicant's accounts that were frozen. The Director of Criminal Investigations is investigating the said accounts. The Applicant has gone underground and does not wish to present himself to the police so that he can put his case forward in regard to how the said colossal sum of Kshs.16,130,000/- landed in his account. This is a court of equity. He who comes to equity must come with clean hands. The Applicant cannot be allowed to use the court process to access a right, yet on the other hand does not want to avail himself to be subjected to the same court process, albeit a criminal one.

This court holds that both Commercial Bank of Africa, Equity Bank and Director of Criminal Investigations were entitled, nay, justified to have the said accounts frozen pending further investigations by the Director of Criminal Investigations. The application lacks merit and is hereby dismissed.

DATED AT NAIROBI THIS 11TH DAY OF OCTOBER 2018

L. KIMARU

JUDGE