

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ANTI-CORRUPTION & ECONOMIC CRIMES CASE NO. 1 OF 2016

ETHICS AND ANTI CORRUPTION COMMISSIONPLAINTIFF

VERSUS

JIMMY MUTUKU KIAMBA1ST DEFENDANT

TRACY MBINYA MUSAU2ND DEFENDANT

JIMBISE LIMITED3RD DEFENDANT

MUTHAIGA GREEN ACRES LTD.....4TH DEFENDANT

AND

EQUITY BANK LIMITED..... INTERESTED PARTY

RULING

The Counsel for the defendants herein Mr. Makokha has made an oral application seeking this court's indulgence to allow access to Kshs 3Million from their bank account. He says the 1st defendant is servicing a loan of Kshs 180Million, he needs to pay legal fees and attend to other personal needs. He has pleaded with the court to consider his clients' plea and grant the limited access sought.

Mrs Odipo holding brief for Mr. Kagucia for the plaintiff has opposed the application arguing that they should file a formal application so that the plaintiff can respond to it. She submitted that there was sufficient time before the hearing date for the defendants to do that. I have noted that the defendants last accessed account No. MM 1428009390 Stanbic Bank Limited for Kshs 3 Million in an account holding over Kshs 100 Million on 20th March 2018. From the evidence so far on record it is true that the defendants are servicing a loan of Kshs 180 Million secured in November 2014. They may require some cash to supplement what they are getting from the rental houses, water sales and transport. Since this matter has now taken off in terms of hearing the Court is now in a position to exercise some discretion based on the evidence so far received. Still preserved are moneys in several bank accounts and what has been referred to as Landed properties. It is my sincere hope that none of the parties will slacken the momentum gained towards the hearing and conclusion of this matter. In the interest of justice, I will allow the application for limited access of upto Kshs 3 Million (Three Million shillings only) from account No MM 1428009390 at Stanbic Bank Limited. I further direct that this court **shall not** entertain any other application for access to the moneys held whether formal or informal, pending the conclusion of this matter.

Orders accordingly.

Dated signed and delivered this 9th day of October 2018 in open court at Nairobi.

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HEDWIG I. ONG'UDI

JUDGE