



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

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

**ETHICS AND ANTI CORRUPTION COMMISSION.....PLAINTIFF**

**VERSUS**

**JIMMY MUTUKU KIAMBA.....1<sup>ST</sup> DEFENDANT**

**TRACY MBINYA MUSAU.....2<sup>ND</sup> DEFENDANT**

**JIMBISE LIMITED.....3<sup>RD</sup> DEFENDANT**

**MUTHAIGA GREEN ACRES LTD.....4<sup>TH</sup> DEFENDANT**

**AND**

**EQUITY BANK LIMITED.....INTERESTED PARTY**

**RULING**

The plaintiff through counsel has made an application to be allowed to provide the court with some bank statements in respect to the 1<sup>st</sup> defendant. That the said statements form part of the period in question but were inadvertently omitted when the annexures were being bound. He has also requested to be allowed to provide the court with original copies of the warrants of search obtained in respect to the 2<sup>nd</sup> defendant's bank accounts. The application has been vehemently opposed by the defendant's counsel on the grounds that the case has already taken off. Mr Makokha submitted that the production of the said documents is to assist the plaintiff further its claim against the defendant. He further argued that the defendants had raised the issue of these bank statements in their further affidavit but no action was taken by the plaintiff. I have carefully considered the application by Mr Kagucia for the plaintiff and the response by Mr. Makokha for the defendants. The hearing herein took off on 4<sup>th</sup> October 2018, and the first witness who is the main investigator is still in the witness box under cross examination. The period which is the subject of this suit is very clear to all the parties herein. The bank statements and the warrants of search sought to be availed in court are in respect to the said period. Already there is a consensus on the reconciliation of the financial analysis done by both parties. The main objective of the Rules of procedure in these proceedings is to facilitate the just, expeditious, proportionate and affordable resolution of this dispute. What is being raised by Mr. Kagucia is not anything new in these proceedings and will not cause prejudice to any of the parties. It is in the interest of justice that the said documents be availed to the court to enable it fairly assess all the evidence. I therefore grant leave to PW1 to file another further affidavit for purposes of producing the bank statements and search warrants inadvertently omitted as annexures herein. Since the said documents are in his possession he should file and serve them by close of business on 11<sup>th</sup> October 2018. The defence is granted corresponding leave to file and serve another supplementary affidavit in respect of the said annexures (only) by close of business on 16<sup>th</sup> October 2018. Parties may now take dates for the next hearing on a day to day basis.

Orders accordingly.

**Delivered, signed and dated this 9<sup>th</sup> day of October 2018 in open court at Nairobi.**

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**HEDWIG I. ONG'UDI**

**JUDGE**