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.....1ST DEFENDANT

TRACY MBINYA MUSAU.....2ND DEFENDANT

JIMBISE LIMITED.....3RD DEFENDANT

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

AND

EQUITY BANK LIMITED.....INTERESTED PARTY

DIRECTIONS

I have had a chance of perusing the court record, the application made by the plaintiff on 9th October 2018, the Ruling by this court dated 9th October 2018 and the Application made by the plaintiff on 5th November 2018 and find as follows:

1 PW1 gave his evidence in chief on 4th October 2018. Cross examination commenced running through to 5th October 2018 when Mr. Makokha requested for an adjournment to enable him attend to some matters at the EACC.

2 It is on record that the defence would only require 15 minutes and close in on their cross examination of PW1. It was at that point that Mr. Kagucia made an application seeking leave to file a further affidavit to introduce new documents which he said were with PW1 only that they were not bound.

3 A Ruling was made and directions given on 9th October 2018. This matter was fixed for hearing on 5th, 6th and 8th November 2018.

4 Come 5th November 2018 the plaintiff further wants this court to give it another opportunity to file more bank statements claiming that there are gaps in the statements filed.

5 The reasons given for the application are the same as those given on 5th October 2018. The witness in the witness box (PW1) on 4th and 5th October 2018 allegedly had all these bank statements and the court is left wondering where the documents disappeared to.

6 The plaintiff herein has always given the impression that it was ready to proceed with its case. It is therefore a surprise that they are not. It must be remembered that this court has been pushing for this matter to proceed to conclusion because the defendants' accounts have been frozen for quite sometime now.

7 Why would PW1 have documents one minute and the next minute he does not have them? Could there be some interference by some quarters? What I am witnessing here is a scheme to derail the hearing of this matter which this court will not be party to.

8 Even if the plaintiff was ready with the so called missing documents the defendants would need to be served and respond to them.

At the same time the Court would wish to have all relevant documents presented before it to enable it arrive at a just decision.

9 For the last time, I will allow the plaintiff to serve the defendants with the supposed to have been missing bank statements. The defendants will be given time to react to them. This means the case cannot proceed today.

Dated, signed and delivered this 6th day of November 2018 in open court at Nairobi.

HEDWIG I. ONG'UDI

JUDGE