



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**COMMERCIAL AND ADMIRALTY DIVISION**  
**CIVIL CASE NO.862 OF 2010**

**FLORENCE WANJIKU GITAU.....PLAINTIFF**

**VERSUS**

**NATU INVESTMENTS LIMITED.....1<sup>ST</sup> DEFENDANT**

**CHABRIN AGENCIES LIMITED.....2<sup>ND</sup> DEFENDANT**

**RULING**

**Inter pleader**

[1] I have agonized over the application dated 15<sup>th</sup> December 2014. I have perused the application, the affidavits filed and the law applicable. It is emerging that there are rival claims between the Applicant and the 1<sup>st</sup> Defendant on the sum of Kshs. 2,000,158 which is being held by the 1<sup>st</sup> Defendant. The joint audit report also raises some fundamental points of divergence between the two auditors. Matters of tax and interest thereto will have implications on the money so held and there is need to determine who of the two is liable to pay the taxes in question. Now, therefore, I think the best way of handling the application before me is by determining the issues I have mentioned. The auditors may file further affidavits on salient areas of divergence. The rival claims will also need further affidavits in order to determine their respective entitlements if at all. Meanwhile, as the 2<sup>nd</sup> Defendant is merely an interpleader, if the funds are not in an investment account, it is prudent that a better way of investing the money being held by the 2<sup>nd</sup> Defendant should be found and agreed among the parties. In such cases, economic realities and the law require that such funds are invested so as to give benefit of investment to the successful party especially where the holder of the funds has no claim thereto.

[2] Accordingly, this matter shall be placed before me on 17<sup>TH</sup> July 2015 for directions. Thereafter, the application dated 15<sup>th</sup> December 2014 shall be determined. It is so directed.

**Dated, signed and delivered in court at Nairobi this 2<sup>nd</sup> day of July 2015**

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**F. GIKONYO**

**JUDGE**