



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL & ADMIRALTY DIVISION
CIVIL SUIT NO. 374 OF 2015

JOHN KIRIBA NG'ANG'A.....PLAINTIFF

-VERSUS-

BARCLAYS BANK OF KENYA LIMITED.....DEFENDANT

RULING

INTRODUCTION

1. This is the Ruling on the **Notice of Motion** application dated **24th September 2015** by the Plaintiff. The application seeks extension of the orders granted herein on 8th September 2015. The said orders granted on 8th September 2015 were as follows:-

1. *That the interim injunction granted herein on 30th July 2015 is now conditional on the Applicant paying to the Respondent Kshs.5,000,000/- within 14 days.*
2. *Failure to comply with this condition the Respondent shall be at liberty to proceed and sell the suit property.*
3. *Parties to file written submissions to be highlighted on 15th October 2015.*

2. The Plaintiff/Applicant having failed to comply with Order number 1 above, filed the current application for extension of the said 14 days.

3. The application was heard on 25th September 2015 pursuant to which the court directed the Applicant to pay Kshs.1,000,000/= on or before 28th September 2015 pending the Ruling on the application on 5th October 2015. The court also extended the said interim orders to 5th October 2015.

4. On 5th October 2015, the said Ruling was not ready, and so the orders were extended to 13th October 2015.

5. I have considered the said application and the submissions of the parties. The reason the court made the order requiring the payment of Kshs.5,000,000/= was because this was the offer the Plaintiff had made to pay to the Defendant as he continued to look for the balance. The offer was contained in the Plaintiff's letter dated 26th May 2015. The said payment was to effected immediately.

6. By the order of this court the Plaintiff has now paid Kshs.1,000,000/= leaving a balance of Kshs.4,000,000/=. The entire Kshs.5,000,000/= was to be paid by 28th September 2015, now past. I am not persuaded that I should extend that period of 14 days which has since lapsed.

7. In the upshot, the Plaintiff's application dated 24th September 2015 is not merited, and is herewith dismissed with costs to the Defendant/Respondent.

Orders accordingly.

READ, DELIVERED AND DATED AT NAIROBI THIS 13TH DAY OF OCTOBER 2015

E. K. O. OGOLA

JUDGE

PRESENT:

M/s Kageni for the Plaintiff

Mr. Havi holding brief for M/s Karanja for the Defendants

Teresia – Court Clerk