

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Civil Suit 603 of 2004

GIRO COMMERCIAL BANK.....PLAINTIFF

VERSUS

MACHO CREDIT LIMITED.....DEFENDANT

RULING

By an application by a Notice of Motion dated 13th July, 2010 and taken out under **Section 1A, 1B and 3A of Civil Procedure Act**, and **Order L Rule 1 of the Civil Procedure Rules**, the Plaintiff applies for an order that the Defendant be ordered to deposit with this court or in a joint interest earning account an amount of Kshs. 12,950,400.00 being mesne profits which have accrued in this matter. In default of making the deposit aforesaid, the order of stay of proceedings made by this court on 3rd March, 2005 be vacated.

To this application, the Respondent filed a Notice of Preliminary Objection. The latter is based *inter alia*, on the grounds that this matter has an order for stay of proceedings which includes the current application. Consequently the stay order issued herein has not been set aside and the court cannot interfere with its own order in the circumstances.

It is common ground that there is on record a court order made on 3rd March, 2005 staying the suit. On that ground alone, this application is not well founded and it is hereby struck out. Each party to bear its own costs.

L. NJAGI
JUDGE

DATED and DELIVERED at NAIROBI this 5th day of November, 2012.

ODUNGA
JUDGE