



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Civil Suit 218 of 2010

SOUTHERN CREDIT BANKING CORPORATION LTD.....PLAINTIFF

VERSUS

SOLOMON W. KARANJA.....1ST DEFENDANT

OLIVE W. KARANJA.....2ND DEFENDANT

IAN KARANJA.....3RD DEFENDANT

OLESOLIAN ENTERPRISES LIMITED.....4TH DEFENDANT

RULING

This is an application for Summary Judgment. It is brought by a Notice of Motion dated 12th October, 2010 and taken out under Order XXXV Rules (a)(a) and 2 of the (Old) Civil Procedure Rules, and Sections 14 and 1B of the Civil Procedure Act.

By the application, the Plaintiff/Applicant seeks an order for Summary Judgment for the Plaintiff against the Defendants jointly and severally. In the alternative, the Applicant prays that the Respondents be ordered to deposit the sum of Kshs. 43,830,053.40 in a joint interest earning account in the names of counsel for both sides.

On 2nd February, 2011 the court directed that the parties herein do file their respective submissions. The Applicant filed its submissions on 11th February, 2011 and the Respondents followed suit on 25th February, 2011. As fate would have it, the new Civil Procedure Rules had come into force in December, 2010. Order 54 Rule 2 thereof provides that-

“In all proceedings pending whether preparatory or incidental to, or consequential upon any proceedings in court at the time of the coming into force of these rules, the provisions of these rules shall thereafter apply but without prejudice to the validity of anything previously done;

Provided that:

If, and in so far as it is impracticable in any such proceedings to apply the provisions of these Rules, the practice and procedure heretofore obtaining shall be followed...”

The new rules now apply to this matter because it is practicable to do so. Since the Defendants had

filed their defence as early as May, 2010, the matter is not subject to an application for summary judgment.

This application is accordingly struck out with no orders as to costs.

**L. NJAGI**  
**JUDGE**

**DATED** and **DELIVERED** at **NAIROBI** this 7<sup>th</sup> day of November, 2012.

**ODUNGA**  
**JUDGE**