



REPUBLIC OF KENYA



KENYA LAW
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Capital Markets Authority v Citbank NA Kenya Branch (Miscellaneous Case E659 of 2024) [2025] KEMC 215 (KLR) (21 January 2025) (Ruling)

Neutral citation: [2025] KEMC 215 (KLR)

REPUBLIC OF KENYA
IN THE MILIMANI COMMERCIAL CHIEF MAGISTRATE'S COURTS
MISCELLANEOUS CASE E659 OF 2024
EN MUTIE, RM
JANUARY 21, 2025

BETWEEN

CAPITAL MARKETS AUTHORITY APPLICANT

AND

CITBANK NA KENYA BRANCH RESPONDENT

RULING

1. The Applicant filed an ex-parte Notice of Motion Application dated 15th April 2024 under a certificate of Urgency. The Motion was brought under Order 51 Rule 1 of the Civil Procedure Rules, Section 11(3)(w), 13(1), 13A (3) (b) and 13B of the *Capital Markets Act* and section 180 of the *Evidence Act*. It seeks the following Orders;
 1. . Spent
 2. That the Honorable court be pleased to issue a warrant to investigate a bank account to enable the Applicant and or an official of the Applicant with relevant rank to have access and investigate/inspect and obtain information, and also to demand to be supplied with and carry away as exhibits or seize certified copies of account opening documents, RTGS transactions, account statements for the period between 1st January 2016 to 31st December 2021 in respect of bank account number 100536439 held in the name of Unilever Tea Kenya Limited at Citibank N.A Kenya.
 3. . That this Honorable Court be pleased to issue an order compelling the manager Citibank NA Kenya to nominate an authorized person(s) to make and give the Applicant and or an officer of the Applicant of relevant rank at certificate of production of electronic evidence under section 106 B (4) of the *Evidence Act* in respect of the evidence (certified copies) generated electronically or from and by electronic device(s) that shall be given in compliance with Order 2 (above) of this Honorable court.



4. . That this Order hereby given by this Honorable Court to be served upon the Manager, Citibank NA Kenya.
5. . That there be no orders as to cost of this Application.
2. The Application is supported by grounds on the face of the Application, an Affidavit sworn on 15th April 2024 by Soita Wasike, the Applicant's senior investigations officer, and a supplementary Affidavit dated 2nd May 2024. The substance of the Application is that the Applicant commenced investigations on Limuru Tea PLC for alleged regulatory infractions regarding financial management, financial impropriety and corporate governance lapses; and that the preliminary findings established that Limuru Tea PLC was settling significant funds from Tea auction sales that were being settled at a bank account in the custody of the Respondent. It is the Applicant's claim that they issued summons for information to the Respondent dated 21st September 2023 for production of information relating to bank accounts that were flagged during the investigations via later dated 30th October 2024, and that the Respondent replied to the summons stating that they were constrained to release the documentation unless there was a court order.
3. I have considered the submissions filed by the Applicant and the only issue before me for determination is whether the court should grant the orders sought.
4. This Court agrees with the Applicant's submissions that Limuru Tea PLC being a publicly listed company in the Nairobi Securities Exchange, falls under the regulatory supervision of the Applicant. After careful analysis of the pleadings and the relevant laws applicable to this matter, this court finds that the Applicant has demonstrated the need for the court to intervene by issuing the orders sought for purposes of the investigations to be concluded.
5. The Applicant has shown that they made attempts to procure the information they are now seeking from the Respondent but the Respondent stated that they can only provide the said information after being served with a court order. Indeed, the Respondent entered appearance through the firm of Hamilton Harrison & Mathews and informed the court that they are not opposing the Application.
6. Section 13A (3)(b) of the *Capital Markets Act* CAP 485A gives this court the power to make orders that the Applicant has sought. The court finds that there will be no prejudice caused if the orders sought are granted, as the Orders sought are well within the powers conferred to the Applicant by Parliament; and as such the Application dated 15th April 2024 is found to be Merited and is allowed as prayed.
7. It is so Ordered.

RULING SIGNED, DATED and PUBLISHED ON CTS AT NAIROBI THIS 21ST DAY OF JANUARY 2025

E N MUTIE

RESIDENT MAGISTRATE

Court Assistant: Zamzam

SIGNED BY: HON. E. N. MUTIE

