



IN THE COURT OF APPEAL

AT NAIROBI

CORAM: NAMBUYE, KOOME & MUSINGA, J.J.A.)

CIVIL APPLICATION NO. 121 OF 2020

BETWEEN

VALENTINE GROWERS LIMITED.....APPLICANT

AND

KIAMBAA COFFEE GROWERS CO-OPERATIVE.....1ST RESPONDENT

ATTORNEY GENERAL.....2ND RESPONDENT

(Being an application for stay of execution of the judgment and order of the High Court of Kenya at Nairobi (L. Njuguna, J.) dated 7th May 2020

in

Nairobi HCCC No. 981 of 2004

ORDER CORRECTING AN ERROR ARISING FROM ACCIDENTAL SLIP OR OMISSION AND TO GIVE EFFECT TO THE COURT'S ORDERS GRANTED IN THE RULING DELIVERED ON 22ND JULY 2020 WHOSE REASONS WERE GIVEN ON 25TH SEPTEMBER 2020 PURSUANT TO RULE 35(1) OF THE RULES OF THE COURT

The matter herein was heard by this Bench on 22nd July 2020 giving rise to a ruling of the Court delivered on the same date of 22nd July 2020 granting orders as follows:

1. Stay of execution prayed for in terms of prayers 2 and 3 of the application is granted on the following conditions:

(a) The entire decretal sum of kshs.5,154,765.50/= is deposited in an interest earning account in a reputable financial institution in the joint names of learned counsel for the respective parties within 30 days of today's date.

2. The appeal to be filed and served within sixty days of today's date and the same to be processed for hearing expeditiously.

3. Reasons for the ruling to be delivered on 6th November 2020.

4. Costs of the application to abide the outcome of the ruling on reasons.

5. In default of any of item 1 and 2 above, the orders of stay of execution granted herein shall lapse.

Reasons for the ruling were reserved for delivery on 6th November 2020

but they were nonetheless issued on 25th September 2020 following early preparation and approval by the Bench. Upon receipt of a copy of the reasons delivered on 25th September 2020, the firm of **Kigano & Associates** for the appellant/applicant via an email of the same date addressed to the Deputy Registrar of the Court raised issue of their non-compliance with the timelines set in the orders granted on 22nd July 2020 citing lack of service upon them of the orders of 22nd July 2020 and sought directions on the way forward considering that the conditional timelines within which to comply with the conditionalities in the said orders had lapsed long before service upon them of the reasons for the ruling was effected.

Upon inquiring from the Registry of the Court, it has transpired that although the orders issued by the Court on 22nd July 2020 were delivered, approved and signed on the same date of 22nd July 2020, a certified copy of the said ruling was never served on the respective parties due to inadvertence on the part of the secretary tasked to type the same and process its dispatch to the Registrar of the Court for onward transmission to the respective parties.

In the result and on the Court's *suo motu* considering that there is no objection from the respondent since service upon them of the above mentioned reasons; and in the exercise of the Court's mandate pursuant to **Rule 35(1)** of the Rules of the Court, the Court *suo motu* proceeds to make rectifications/corrections to item 1 and 2 in the ruling delivered on 22nd July 2020 with regard to timelines within which to comply with the conditionalities stated therein, in order to give effect to the orders granted therein as follows:

1. Stay of execution prayed for in terms of prayers 2 and 3 of the application is granted on the following conditions:

(a) The entire decretal sum of kshs.5,154,765.50/= is deposited in an interest earning account in a reputable financial institution in the joint names of learned counsel for the respective parties within 30 days of the date of this rectification/correction order.

(b) The appeal to be filed and served within sixty days of the date of this rectification/correction order and the same to be processed for hearing expeditiously.

2. In default of any of item 1(a) and (b) above, the orders of stay of execution granted herein shall lapse.

There will be no orders as to costs for partial correction of the orders of the ruling dated 22nd July 2020.

Dated and Delivered at Nairobi this 23rd day of October, 2020.

R. N. NAMBUYE

.....

JUDGE OF APPEAL

M. KOOME

.....

JUDGE OF APPEAL

D. K. MUSINGA

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR