



**Equity Traders Limited v Karoki & 2 others; Bazalel (Plaintiff to the Counterclaim);
Mukindia & another (Defendant to the Counterclaim) (Environment & Land
Case E005 of 2024) [2024] KEELC 4926 (KLR) (24 June 2024) (Ruling)**

Neutral citation: [2024] KEELC 4926 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E005 OF 2024**

JO MBOYA, J

JUNE 24, 2024

BETWEEN

EQUITY TRADERS LIMITED PLAINTIFF

AND

CAROLINE KAROKI 1ST DEFENDANT

HEZI BAZALEL 2ND DEFENDANT

MARGRET KAMENE JOHN 3RD DEFENDANT

AND

HEZI BAZALEL PLAINTIFF TO THE COUNTERCLAIM

AND

GEORGE IRERI MUKINDIA DEFENDANT TO THE COUNTERCLAIM

ANCENT MAKAU MUUTU DEFENDANT TO THE COUNTERCLAIM

RULING

1. The Defendants/Applicants have approached the Honorable court vide the Notice of Motion Application dated the 2nd May 2024 brought pursuant to the provisions of Sections 1A, 1B and 3B of the *Civil Procedure Act*; Order 51 Rule of the Civil procedure Rules and Article 159 of *the Constitution* 2010 and wherein the Applicants have sought for the following reliefs;
 - i. That the Honorable court be pleased to issue an order staying the proceedings herein pending the hearing and determination of Hccomm No. E052 Of 2014 Hezi Bezael & Equity Traders Ltd V George Ireri Mukinda, Ancent Makau Muutu & Registrar Of Companies.



- ii. That this Honorable court be pleased to issue such further or other orders as it deem just and convenient.
- iii. That costs of this Application be provided for.
2. The instant application is anchored on various grounds which have been highlighted at the foot thereof. Furthermore, the application beforehand is supported by the affidavit of the 2nd Defendant/Applicant [Caroline Karoki] sworn on the 2nd May 2024.
3. Pursuant to the supporting affidavit, the deponent thereof has averred that the Plaintiff Company was incorporated by the 3rd Defendant/Applicant and hence the 3rd Defendant/Applicant is the lawful shareholder and thus director of the Plaintiff Company.
4. Nevertheless, the deponent has ventured forward and averred that despite the fact that the 3rd Defendant/Applicant is the one who incorporated the Plaintiff Company, the records at the registrar of companies have been fraudulently interfered with and the 3rd Defendant/Applicant and her trustees have since been removed and ousted from the register of shareholders and directors of the said company.
5. Arising from the foregoing, the deponent of the supporting affidavit has thus contended that the 3rd Defendant Applicant has since filed Milimani HCCOM NO. E052 of 2024 and wherein, same [3rd Defendant/Applicant] has sought to have the register of the company held by the registrar of companies to be rectified accordingly.
6. Be that as it may, upon being served with the instant application, the Plaintiff/Respondent filed a Replying affidavit sworn by one George Ileri Mukindia sworn on 22nd May 2024 and wherein the deponent has contended that the Applicants herein have neither established nor demonstrated any sufficient cause to warrant the grant of the orders of stay of proceedings sought at the foot of the instant application.
7. Suffice it to point out that the application beforehand came up for hearing on the 23rd May 2024 whereupon the advocates for the respective parties covenanted to canvass and ventilated the application by way of written submissions. Consequently and in this regard, the court proceeded to and circumscribed the timeline for the filing and exchange of written submissions.
8. Pursuant to the directions by the court, the Applicants herein filed written submissions dated the 11th June 2024 whereas the Plaintiff/Respondent filed written submissions dated the 7th June 2024. For coherence, the two [2] sets of written submissions form part of the record of the court.

Parties' Submissions:

Applicant's Submissions:

9. The Applicants herein filed written submissions dated the 11th June 2024 and in respect of which same [Applicants] have adopted the grounds enumerated at the foot of the application as well as the averments contained in the body of the supporting affidavit.
10. Furthermore, learned counsel for the Applicants has thereafter isolated, raised and canvassed three [3] salient issues for consideration by the court.
11. Firstly, learned counsel for the Applicants has submitted that it is the 3rd Defendant/Applicant who incorporated the Plaintiff Company and thereafter caused her trustees to be shareholders and directors of the Plaintiff Company. However, it has been contended that the register of shareholders and



- directors of the Plaintiff Company has since been fraudulently altered and the names of the 3rd Defendant/Applicant and her trustees have been removed from the register.
12. Additionally, it was contended that arising from the fraudulent removal of the names of the 3rd Defendant/Applicant and her trustees from the register of companies, the 3rd Defendant/Applicant has since filed a suit before the high court namely, Milimani HCCOM NO E052 of 2024 and wherein the issue of shareholding and directorship of the company are being interrogated and addressed.
 13. Owing to the foregoing, learned counsel for the Applicants has thus submitted that it would be in the interests of justice that the instant suit be stayed pending the hearing and determination of the suit before the high court and wherein the question of shareholding and directorship of the Plaintiff Company would be addressed.
 14. Secondly, learned counsel for the Applicant has submitted that there is no dispute as pertains to ownership of the suit property, namely, L.R No. 17519, situate within the City of Nairobi. In any event, learned counsel has reiterated that the suit property lawfully belongs to and is registered in the name of the Plaintiff Company.
 15. Thirdly, learned counsel for the Applicant has submitted that the determination of the suit pending before the high court [Commercial and Tax division], will impact upon the suit herein and hence there is no need or justification to warrant the suit herein being proceeded with.
 16. Other than the foregoing, learned counsel for the Applicants has also submitted that the grant of an order of stay of proceedings is an exercise of discretion of the court. However, learned counsel has contended that the facts at the foot of the instant application warrants the grant of the orders sought.
 17. In support of the submissions that sufficient basis has been laid to warrant the grant of the orders of stay of proceedings, learned counsel for the Applicants has cited and relied on inter-alia the holding in the case of Harman Sing & Others v Mistri [1971] EA 122; Re Global Tours & Travel Ltd Nairobi HC Winding Up Cause No. 43 of 2000 [UR]; and Kenya Wildlife Services v Mutembei [2019] eKLR, respectively.
 18. Arising from the foregoing, learned counsel for the Applicants has thus implored the court to find and hold that sufficient cause has been established to warrant the grant of the orders of stay of proceedings in the manner sought at the foot of the instant application.

Respondent's Submissions:

19. The Respondent filed written submissions dated the 17th June 2024 and wherein same [Respondent] has adopted and reiterated the averments contained in the body of the Replying affidavit sworn by George Ileri Mukindia on the 22nd may 2024.
20. Furthermore, learned counsel for the Respondent has ventured forward and highlighted two [2] salient issues for consideration and determination by the court. First and foremost, learned counsel for the Respondent has submitted that the Applicants herein have neither demonstrated nor established a sufficient cause to warrant the grant of the orders of stay of proceedings, either in the manner sought or at all.
21. On the other hand, learned counsel for the Respondent has submitted that an order of stay of proceedings can only issue and/or be granted upon demonstration of sufficient basis taking into account the grave consequences of such an order. Instructively, it has been contended that an order of stay of proceedings cannot issue for the mere asking by a party, the Applicants herein not excepted.



22. To buttress the submissions pertaining to the ingredients that underpin the grant of an order of stay of proceedings, learned counsel for the Respondent has cited inter-alia the holding in the case of Kenya national Commission on Human Rights v Attorney General; IEBC & 16 Others [Interested Parties] [2020] KESC 54 [KLR] and Kenya Wildlife Service v James Mutembei [2019]eKLR.
23. Secondly, learned counsel for the Respondent has submitted that the application beforehand constitutes and amounts to an abuse of the due process of the court. For coherence, learned counsel for the Respondent has submitted that the suit before the high court [commercial and tax division] and which founds the basis of the application for stay of proceedings touches on and concerns a separate and distinct matter, which is at variance with the dispute beforehand.
24. Notably, learned counsel for the Respondent has pointed out that the dispute before the high court [commercial and tax division] concerns shareholding and directorship whereas the dispute beforehand touches on ownership of LR No. 17519; which admittedly belongs to and is registered in the name of the Plaintiff/Respondent.
25. Owing to the fact that the Applicants herein have conceded and admitted that the suit property belongs to the Plaintiff/Respondent, it has been contended that the Application seeking stay of the instant proceedings is therefore informed by ulterior motive[s] and hence constitute an abuse of the due process of the court.
26. To this end, learned counsel for the Respondent has cited and relied on the holding in the case of Muchanga Investment Ltd v Safaris Unlimited [Africa] Ltd & 2 Others [2009] eKLR and Kuria v Wanjoi; Chief land Registrar [Interested Party] [2024] KEELC 1700 [KLR], respectively to espouse the contention that the application by the Applicants constitute and abuse of the due process of the court.

Issues For Determination:

27. Having reviewed the Notice of Motion Application dated the 2nd May 2024 and the response thereto and upon taking into consideration the written submissions filed on behalf of the respective parties, the following issues do crystalize [emerge] and are thus worthy of determination;
 - i. Whether the Applicants herein have established and demonstrated sufficient cause and/or basis to warrant the grant of an order of stay of proceedings or otherwise.
 - ii. Whether the application beforehand constitutes an abuse of the due process of the court.

Analysis And Determination

Issue Number 1 Whether the Applicants herein have established and demonstrated sufficient cause and/or basis to warrant the grant of an order of stay of proceedings or otherwise.

28. It is common ground that the instant suit was filed and/or lodged by the Plaintiff/Respondent and wherein same [Plaintiff/Respondent] contends that the suit property lawfully belongs to and is registered in her name. Furthermore, the Plaintiff/Respondent contends that by virtue of being the registered proprietor of the suit property same [Plaintiff/Respondent] is therefore entitled to absolute and exclusive rights thereto.
29. Nevertheless, the Plaintiff/Respondent posited that despite being the lawful and registered proprietor of the suit property, the Defendants/Applicants herein have variously interfered with the suit property and hence the suit seeking for the intervention of the court.



30. On the other hand, the Defendants/Applicants herein contend that even though the suit property lawfully belongs to and is registered in the name of the Plaintiff/Respondent, the Plaintiff/Respondent is however a company that was incorporated by the 3rd Defendant/Applicant and thus the 3rd Defendant/Applicant has a lawful stake in the Plaintiff company as a shareholder and director.
31. Nevertheless, the Applicants herein have ventured forward and contended that the register of the Plaintiff Company at the registrar of companies has since been fraudulently altered and the name of the 3rd Defendant/Applicant and her trustees have been removed from the register.
32. Owing to the foregoing, the Applicants contend that same [Applicants] and in particular the 3rd Defendant/Applicant] has since filed a suit before high court [commercial and tax division] namely, Milimani HCCOM NO E052 of 2024 and wherein the question of shareholding and directorship of the Plaintiff company shall be at rest.
33. It is the foregoing background that has precipitated the filing of the current application and wherein the Applicants are seeking for an order of stay of proceedings in respect of the instant matter.
34. Arising from the foregoing, it is therefore appropriate for this court to discern whether or not the factual scenario, which has been adverted to and enumerated in the preceding paragraphs demonstrates sufficient cause to warrant the grant of an order of stay of proceedings.
35. To start with, there is no gainsaying that the Defendants/Applicants herein admit and acknowledge that the suit property lawfully belongs to and is registered in the name of the Plaintiff Company. [See paragraphs 9 of the supporting affidavit sworn on the 2nd May 2024].
36. Having conceded and acknowledged that the Plaintiff Company is the lawful and registered proprietor of the suit property which forms the subject of the dispute before the court, the question that does arise relates to whether or not the Plaintiff Company is obligated to partake of and benefit from the rights attendant to ownership of the suit property.
37. In my humble view, once it is conceded that a particular person and/or body owns the designated property, then it behooves the court to facilitate such a party to enjoy the rights attendant to and flowing from such ownership, until the Court orders otherwise. [See Section 24 and 25 of the [Land Registration Act](#), 2012].
38. At any rate, it is not lost on this court that the Plaintiff/Respondent has approached the court with a view to propagating her rights and entitlement to the suit property. For good measure, the Plaintiff/Respondent herein is desirous to procure and obtain orders from the court [if at all], to enable her to enjoy the rights attendant to ownership of the suit property.
39. Instructively, the enjoyment of the rights attendant to and arising from ownership of the suit property can only be freely and effectively enjoyed once this honorable court determines the dispute beforehand and not otherwise.
40. In view of the foregoing, it is imperative to underscore that the determination of the rights and interests of the parties herein, the Plaintiff/Respondent not excepted, should be undertaken without undue delay or at all, so that the parties appreciate their rights and/or interests [See Article 159 [2] [b] of [the Constitution](#) 2010].
41. Be that as it may, the Defendants/Applicants are seeking for an order of stay of proceeding[s] of the suit whose net effect shall defeat and/or obstruct the expeditious hearing and determination of the suit beforehand. Consequently, it is paramount to state that whenever a party, the Applicants not excepted



are seeking for an order of stay of proceeding[s] then such a party must demonstrate sufficient cause and/or basis to warrant such an order.

42. To my mind, the Applicants beforehand have neither demonstrated nor established any sufficient cause and/or basis to warrant the grant of an order of stay of proceedings or at all.
43. In any event, it is worthy to underscore that an order of stay of proceedings is a grave order taking into account that once granted, the hearing of the suit in question is suspended and held in abeyance, to the detriment and prejudice of the claimant thereto. Simply put, an order of stay of proceedings can only therefore be issued in exceptional and peculiar circumstances.
44. To this end, it suffices to take cognizance of the decision in the case of Kenya Wildlife Service versus James Mutembei [2019]eKLR, where the Court stated and held thus;

Stay of proceeding should not be confused with stay of execution pending appeal. Stay of proceedings is a grave judicial action which seriously interferes with the right of a litigant to conduct his litigation. It impinges on right of access to justice, right to be heard without delay and overall, right to fair trial. Therefore the test for stay of proceeding is high and stringent. See Ringera J in the case of Global Tours & Travels Limited; Nairobi HC Winding Up Cause No. 43 of 2000 persuasively stated thus;

“As I understand the law, whether or not to grant a stay of proceedings or further proceedings on a decree or order appealed from is a matter of judicial discretion to be exercised in the interest of Justice the sole question is whether it is in the interest of justice to order a stay of proceedings and if it is, on what terms it should be granted. In deciding whether to order a stay, the court should essentially weigh the pros and cons of granting or not granting the order. And in considering those matters, it should bear in mind such factors as the need for expeditious disposal of cases, the prima facie merits of the intended appeal, in the sense of not whether it will probably succeed or not but whether it is an arguable one, the scarcity and optimum utilization of judicial time and whether the application has been brought expeditiously” (emphasis added)

45. Likewise, the circumstances to be taken into account prior to and before an order of stay of proceedings can be granted were also highlighted and elaborated upon by the Court of Appeal in the case of [*Bandari v Ethics and Anti-Corruption Commission \(Civil Appeal \(Application\) E056 of 2023\)*](#) [2023] KECA 515 (KLR) (12 May 2023) (Ruling)

Neutral citation: [2023] KECA 515 (KLR), where the court stated as hereunder;

Further, that a prayer for stay of proceedings must not be confused with a prayer for stay of execution, as the former seriously interferes with a litigant’s right to conduct his litigation, and also impinges on the right to access to justice (see Kenya Wildlife v James Mutembei [2019] eKLR).

46. Other than the case law [whose details have been alluded to in the preceding paragraphs] the grave nature of an order of stay of proceedings has also been underscored in Halsbury’s Law of England, 4th Edition. Vol. 37 page 330 and 332, where the learned author had stated thus;

“The stay of proceedings is a serious, grave and fundamental interruption in the right that a party has to conduct his litigation towards the trial on the basis of the substantive merits of his case, and therefore the court’s general practice is that a stay of proceedings should not



be imposed unless the proceeding beyond all reasonable doubt ought not to be allowed to continue.”

“This is a power which, it has been emphasized, ought to be exercised sparingly, and only in exceptional cases.”

“It will be exercised where the proceedings are shown to be frivolous, vexatious or harassing or to be manifestly groundless or in which there is clearly no cause of action in law or in equity. The applicant for a stay on this ground must show not merely that the plaintiff might not, or probably would not, succeed but that he could not possibly succeed on the basis of the pleading and the facts of the case.”

47. In a nutshell, it is not lost on this court that an order of stay of proceedings has grave consequences to the expeditious hearing and determination of a dispute before the court and hence same [stay of proceedings] ought to be granted with necessary caution and circumspection taking into account the constitutional imperative underpinned by Article 159 [2] [b] of *the Constitution* 2010.
48. Arising from the foregoing exposition, my answer to issue number one is to the effect that the Applicants herein have neither established nor demonstrated sufficient cause and/or basis to warrant the grant of the orders of stay of proceedings, either in the manner sought or at all.
49. Further and at any rate, it is worth reiterating that an order of stay of proceedings does not issue at the mere asking and convenience of an Applicant. Quite clearly, such an order must only be issued in deserved situation[s], where there is a likelihood of undue prejudice being suffered by the Applicant and not otherwise.

Issue Number 2 Whether the application beforehand constitutes an abuse of the Due process of the court.

50. The Applicants before the court have themselves acknowledged and conceded that the suit property belongs to and is registered in the name of the Plaintiff Company. In fact, the only dispute which is being highlighted and canvassed by the Applicants pertains to [sic] the fraudulent alteration of the register of shareholders and directorship of the Plaintiff Company. However, the said issue is currently being canvassed before the high court [commercial and tax division].
51. Be that as it may, it is not lost on this court that a company, the Plaintiff not excepted is separate and distinct from her shareholders and directors. Consequently, even where there is a dispute between the shareholders and the directors such a dispute does not affect the rights of the company to deal with a property that lawfully belongs to and is registered in her name.
52. As pertains to the legal position that a company is separate and distinct from her shareholders and directors, it suffices to adopt, restate and reiterate the succinct holding in the case of *Omondi vers National Bank of Kenya Ltd* [2001]eKLR, where the court stated and observed as hereunder;

It is a basic principle of company law that the company has a distinct and separate personality from its shareholders and directors even when the directors happen to be the sole shareholders (see *Salmon v a Salmon & Co Ltd* [1897] AC 22). The property of the company is distinct from that of its shareholders and the shareholders have no proprietary rights to the company’s property apart from the shares they own. From that basic consequence of incorporation flows another principle: only the company has capacity to take action to enforce its legal rights. The contention by counsel for the plaintiff that the investment in LVF is by the plaintiffs and they are accordingly the proper plaintiffs in this action is manifestly without legal foundation. And although it is true that the appointment of a



receiver manager has the effect of rendering the board of directors functus officio, it does not destroy the corporate existence and personality of the company.

53. To the extent that the Applicants herein have conceded that the suit property belongs to and is registered in the name of the company, the question that does arise and which must be addressed relates to what then is the purpose of stay of proceedings wherein the ownership rights of the Plaintiff company are sought to be addressed.
54. At any rate, it is common knowledge that stay of proceedings can only issue in two circumstances. Firstly, stay of proceedings can issue pursuant to the provisions of Section 6 of the [Civil Procedure Act](#), Chapter 21 Laws of Kenya and wherein it must be demonstrated that there exists another suit between the same parties and concerning the same subject matter.
55. However, in respect of the instant matter, there is no gainsaying that the suit before the high court [commercial and tax division] does not concern the same parties as the one beforehand. Further and in addition, the nature of dispute that is being canvassed before the high court [commercial and tax division] is separate and distinct from the dispute beforehand.
56. Arising from the foregoing, would it then be said that the Applicants herein are acting in good faith and genuinely in seeking a stay of proceedings, yet same [Applicants], are privy and alive to the distinction in the nature of disputes between the suit before the high court and the instant one.
57. In my humble view, the answer to the question highlighted in the preceding paragraph is in the negative. Furthermore, I beg to underscore that the Applicants herein have neither established nor demonstrated the ingredients underpinning the grant of an order of stay of proceedings.
58. To this end, it suffices to take cognizance of the holding of the Supreme Court of Kenya [the apex court] in the case of Kenya National Commission on [Human Rights v Attorney General; Independent Electoral & Boundaries Commission & 16 others \(Interested Parties\) \(Advisory Opinion Reference 1 of 2017\)](#) [2020] KESC 54 (KLR) (Constitutional and Human Rights) (7 February 2020) (Ruling), where the court held thus;

67The term ‘sub-judice’ is defined in Black’s Law Dictionary 9th Edition as: “Before the Court or Judge for determination.” The purpose of the sub-judice rule is to stop the filing of a multiplicity of suits between the same parties or those claiming under them over the same subject matter so as to avoid abuse of the Court process and diminish the chances of courts, with competent jurisdiction, issuing conflicting decisions over the same subject matter. This means that when two or more cases are filed between the same parties on the same subject matter before courts with jurisdiction, the matter that is filed later ought to be stayed in order to await the determination to be made in the earlier suit.

A party that seeks to invoke the doctrine of res sub-judice must therefore establish that; there is more than one suit over the same subject matter; that one suit was instituted before the other; that both suits are pending before courts of competent jurisdiction and lastly; that the suits are between the same parties or their representatives.

59. Secondly, an order of stay of proceedings can also issue pursuant to and in line with the provisions of Order 42 Rule 6[1] of the Civil procedure Rules 2010; where it is demonstrated that an appeal has been filed and whose determination may impact on the proceedings before the court. In such a situation, the court whose orders are being appealed from may subject to sufficient cause being shown grant an order of stay of proceedings. [See Dr. David Morton Silverstein v Atsango Chesoni [2002]eKLR].



60. To my mind, the Applicants herein have neither demonstrated nor proved that the subject application falls within the known parameters of the law which underpin the grant of an order of stay of proceedings.
61. On the contrary, the Applicants herein seem to suggest that the court has inherent jurisdiction to grant an order of stay of proceedings, even where the nature of the dispute in the other court is distinct from the one beforehand. However, in my humble view, the inherent jurisdiction of the court cannot be invoked and be deployed in instances where there is a clear provision of the law provided for in the statute [See the court of appeal decision in Wilfred Konosi T/a Konosi & Associates v Flamco Ltd [2019]eKLR].
62. Suffice it to point out that the application beforehand, which is made by the Applicants, despite the concession and acknowledgment that the suit property belongs to the Plaintiff company, is informed by a desire to delay/ obstruct the expeditious determination of the case; and thus same constitutes and amounts to an abuse of the due process of the court.
63. Without belaboring the point and in an endeavor to demonstrate what constitutes abuse of the due process of the court, I beg to adopt the holding in the case of Satya Bhama Gandhi v Director of Public Prosecutions & 3 others [2018] eKLR, where the court held thus;
23. The situation that may give rise to an abuse of court process are indeed in exhaustive, it involves situations where the process of court has not been or resorted to fairly, properly, honestly to the detriment of the other party. However, abuse of court process in addition to the above arises in the following situations:-
- (a) Instituting a multiplicity of actions on the same subject matter, against the same opponent, on the same issues or multiplicity of actions on the same matter between the same parties even where there exists a right to begin the action.
 - (b) Instituting different actions between the same parties simultaneously in different court even though on different grounds.
 - (c) Where two similar processes are used in respect of the exercise of the same right for example a cross appeal and respondent notice.
 - (d) Where an application for adjournment is sought by a party to an action to bring another application to court for leave to raise issue of fact already decided by court below.
 - (e) Where there no iota of law supporting a court process or where it is premised on recklessness. The abuse in this instance lies in the inconvenience and inequalities involved in the aims and purposes of the action.[13]
 - (f) Where a party has adopted the system of forum-shopping in the enforcement of a conceived right.
 - (g) Where an appellant files an application at the trial court in respect of a matter which is already subject of an earlier application by the respondent at the Court of Appeal.
 - (h) Where two actions are commenced, the second asking for a relief which may have been obtained in the first. An abuse may also involve some bias, malice or desire to misuse or pervert the course of justice or judicial process to the irritation or annoyance of an opponent.[14]



24. In the words of Oputa J.SC (as he then was)[15] abuse of judicial process is:-

“A term generally applied to a proceeding which is wanting in bona fides and is frivolous vexations and oppressive. In his words abuse of process can also mean abuse of legal procedure or improper use of the legal process.”

25. Justice Niki Tobi JSC observed:-[16]

“that abuse of court process create a factual scenario where appellants are pursuing the same matter by two court process. In other words, the appellants by the two court process were involved in some gamble a game of chance to get the best in the judicial process.”

64. To my mind, the application beforehand fits and falls within the parameters of what constitutes an abuse of the due process of the court. In any event, the application herein has not been made in good faith and same [Application] reeks of mala-fides.

65. In sum, my answer to issue number two [2] is to the effect that the application by and on behalf of the Applicants herein indeed constitutes and amount to an abuse of the due process of the court.

Final Disposition:

66. Flowing from the discussion [details in terms of the preceding paragraphs], it is crystal clear that the application beforehand does not meet and/or satisfy the threshold for the grant of an order of stay of proceedings or at all.

67. Consequently and in the premises, the application dated the 2nd May 2024 is devoid of merits and same [application] is hereby dismissed with costs to the Plaintiff/Respondent.

68. It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 24*th DAY OF JUNE 2024.

OGUTTU MBOYA,

JUDGE.

In the Presence of:

Benson / Brian - Court Assistant.

Ms Nasimiyu for the Defendants/Applicants.

Ms. Jacky Akinyi for the Plaintiff/Respondent.

