



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT OF KENYA
AT NAIROBI
CAUSE NO. 133(N) OF 2008

1. ALPHONSE MWANGEMI MUNGA
2. PETER MUCHIRI MURIUNGI
3. MICHAEL ONYANGO OCHIENG'
4. PETER N. MAKAU
5. CHIVATSI KATAMA
6. MARICOS NYAMWANGA OKONGO
7. STEPHEN NZIOKA KASINA
8. SHADRACK C. LEWA
9. BENEDICT ORWARU
10. NICHOLUS MUOKI
11. JAMES KANGELE (Suing on their own behalf
and on behalf of 367 employees of
AFRICAN SAFARI CLUB LIMITED CLAIMANTS
12. EDERMANN PROPERTY
LIMITED 1ST INTERESTED PARTY / APPLICANT
13. STEPHEN KIMANI KARUU
T/A KIRIIYU MERCHANTS 2ND
INTERESTED PARTY /1ST RESPONDENT

VERSUS

AFRICAN SAFARI CLUB LIMITED RESPONDENT

Mr. Achoki for 1st Interested Party / Applicant

Mr. Kurauka for Claimant / Respondent

M/S Thungu for 2nd Interested Party / Respondent

RULING

1. The Notice of Motion Application dated 5th November 2013 seeks interalia for orders;
2. That owing to the urgency and for the reasons stated hereinafter, service of this Application upon the 2nd Interested Party be dispensed with in the first instance.
3. That this Honourable Court do grant leave to have Mr. Stephen Kimani Karuu t/a Kiriuyu Merchants been joined into the Application as a second Interested Party.
3. That this Honourable Court do order that the Deposit of Kshs.30 Million paid by Erdemmann Property Limited, the 1st Interested Party and the successful bidder of that Public Auction conducted by Mr. Stephen Kimani Kimani Karuu on 8th

April 2014 with respect to land Parcel No. L.R. 1515/1/M. N. and the same be banked in an interest earning joint current account that will be operated jointly by Mr. Stephen Kimani Karuu (the Auctioneer), Mr. Henry A. Karauka

(the Claimant's Advocate) and Mr.Zadarack Achoki (the property purchaser's Advocate, until Land Parcel No. L.R. 12 1515/1/M.N. is duly transferred to Erdermann Properties Limited, the 1st Interested Party herein.

4. That costs of this Application be provided for.
5. The 2nd Interested Party filed a Replying Affidavit on 20th April 2015. From the Affidavit, it is clear that the 2nd Interested Party conducted an auction and was paid a deposit of Kshs.30 Million and same was deposited in Family Bank

(K) Limited Account No. 01200029852 in the name of Kariiyu Merchant.

6. That the money is in a client account and is not earning any Interest.
7. The 2nd Interested Party submitted that if the parties wish the money to be placed in a joint interest earning account then the entire purchase price of Kshs.120 Million be put in an account jointly held by the Advocates for the Claimants;

Advocates for the 1st Interested Party (the purchaser) and the 2nd Interested Party (the Auctioneer).

8. The Advocates for the Claimant and that for the Interested Party were of the view that the only interest by the 2nd Interested Party is to have its auction fees and costs paid.
9. Therefore the Auctioneer should proceed to release the money to a joint account held by the

Advocates for the Claimants and the Advocates for the 1st Interested Party pending the conclusion of the transaction and or hearing of the Appeal.

10. Determination

The Court is satisfied that the 2nd Interested party's only interest is to be paid its fees and costs for the Auction.

The Court therefore grants the Notice of Motion dated 2nd November 2013 in terms of prayer 1 and 2.

11. Prayer 2 is amended to remove 'Mr. Stephen Kimani Karuu' (the Auctioneer so that the Ksh.30 Million will be deposited in a joint interest earning account operated by Mr. Henry A. Karauka (the Claimant's Advocates) and Mr. Zadarack

Achoki (the property purchaser's Advocate) until Land Parcel No. L.R. 1515/1/M.N. is duly transferred to Erdemmann Property Limited, the 1st Interested Party herein.

12. 2ndly, the Advocate for the Claimant and the Advocate for the purchaser to jointly ensure that the Auctioneer's fees and costs are duly paid upon taxation by the Court.

13. Each Party to meet their own costs of this Application.

Dated and Delivered at Nairobi this 19th day of June, 2015.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE