REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT OF KENYA

AT NAIROBI

CAUSE NO. 1772 OF 2013

KEVIN MICHAEL DUNLOP …….…….. CLAIMANT

VERSUS

CMC MOTORS GROUP LIMITED ….…... 1ST RESPONDENT

JAMES KARIUKI T/A

NDARUGU MERCHANTS …….. 2ND RESPONDENT

RULING

1. The Applicant filed a notice of motion dated 25th February 2014 seeking an order in the following terms;

> **(1) that the 1st Respondent's Statement of Defence dated 16th December, 2013 and filed on 18th December, 2013 be struck and judgment be entered in favour of the Claimant and against the Respondents as prayed in the Claimant's Memorandum of Claim.**
>
> **(2) that in the alternative to 2 above the 1st Respondent be ordered to deposit the sum of Kshs.12,504,076.00 in this Honourable Court as security for satisfaction of any decree that may be passed against it in the suit herein.**

2. There is no basis at all for the orders sought in that:

the Memorandum of Defence is in the Court file and if need be, the Applicant is at liberty to obtain a copy of the same for purpose of filing a response for any event a reasonable explanation was given why there was a delay in serving the Statement of Defence.

4. With respect to the second prayer sought, the 1st Respondent is a public company listed in the Kenya Stock Market and if the same is brought out by the said prospective buyers the law governing such a taken over shall cover the interest of persons with pending suits against the 1st Respondent.

5. The Application to get the 1st Respondent to deposit the sum of Kshs.12,504,076/= as security for satisfaction of any decree that may be passed against it lacks merit and same is dismissed with costs.

Dated and Delivered at Nairobi this 13th day of June 2014

MATHEWS N. NDUMA

PRINCIPAL JUDGE