



Ethics and Anti-Corruption Commission v M/S Papaton Security Services Limited & another (Miscellaneous Civil Application E266 of 2024) [2024] KEHC 7719 (KLR) (27 June 2024) (Ruling)

Neutral citation: [2024] KEHC 7719 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION E266 OF 2024
RE ABURILI, J
JUNE 27, 2024
MATTER OF THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003
AND
IN THE MATTER OF AN APPLICATION FOR PRESERVATORY ORDERS UNDER SECTION 56 OF THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003
BETWEEN
ETHICS AND ANTI-CORRUPTION COMMISSION APPLICANT
AND
M/S PAPATON SECURITY SERVICES LIMITED 1ST RESPONDENT
M/S EQUITY BANK KENYA 2ND RESPONDENT

RULING

1. I have considered the application dated 27th July 2024 by way of Originating Motion, the grounds on the face thereof as well as the supporting affidavit sworn by Lizbeth Kawira the EACC Investigator.
2. I am satisfied that the application is urgent and ought to be considered expeditiously, in the first instance. I certify the application as urgent.
3. On the prayer sought and whether conservatory interlocutory preservation order ought to be issued, I observe that the matter in issue involves Public funds which are alleged to be paid or being paid to the 1st Respondent M/s Papaton Security Services Limited by the County Government of Kisumu, without proof of any services rendered to the said County Government, and the payments are being channelled through M/s Equity Bank of Kenya, Kisumu Branch and Mbale Branch via Account Numbers 029029xxxxxxx and 096027xxxxxxx in the name of the 1st Respondent Papaton Security Services Limited.



4. The Applicant is apprehensive that unless those funds already paid into those accounts as stated herein are preserved, being suspected to be proceeds of corrupt conduct or corruption which the applicant is mandated to seek recovery or forfeiture of from the Respondents, the said sums of money will be transferred, or withdrawn before investigations are completed.
5. The Applicant therefore prays for the orders preserving the said funds held in the said accounts with Equity Bank Kenya and prohibiting the 1st Respondent, its agents, servants or any other person from withdrawing, transferring, disposing or in any manner dealing with the money in the two named accounts for six (6) months.
6. The estimated amount of money received and or paid into the named Bank accounts is Kshs.200,000,000 (Two Hundred Million Kenya Shillings).
7. Having considered the application as presented and the provisions under which the application is premised, I am satisfied that for the Applicant to fully undertake investigations and rule out any possibility and suspicion that the 1st Respondent is involved in receiving proceeds of corrupt conduct or corruption and receiving such monies through the 2nd Respondent's Bank and accounts held at Kisumu Branch and Mbale Branch respectively, held in the name of the 1st Respondent Papaton Security Services Limited, I hereby grant the orders sought, preserving the monies held in the accounts Nos. 029029xxxxxxx and 09602xxxxxxx in the name of Papaton Security Services Limited at the Kisumu and Mbale Branches of Equity Bank Kenya.
8. This preservation order prohibits the two (2) Respondents herein from transferring or permitting the transfer or withdrawal from the said two accounts any money by any person except by the order of this court and the prohibition shall last for a period of six (6) months from the date of service of this order upon the 2nd Respondent for immediate compliance unless the period herein stated is extended by this court.
9. The Applicant shall, upon service of the order upon the 2nd Respondent for compliance, serve the said order upon the 1st Respondent. This is necessary for preservation of the funds held in the two accounts.
10. Any of the parties served with the order of preservation of the funds and upon such compliance with the said order, is at liberty to apply to court.
11. An order be extracted from this ruling.
12. Mention on 26th September 2024 to confirm compliance.
13. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 27TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

