

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(EXECUTION AND BAILIFFS DIVISION)

MISCELLANEOUS APPLICATION NO. 3126 OF 2015

5 **(ARISING FROM EMA 1327 OF 2015)**

(ARISING OUT OF MISCELLANEOUS APPLICATION 124 OF 2013)

(ALL ARISING OUT OF CIVIL SUIT 37 OF 2013)

MAKUBUYA ENOCK WILLIAM T/A POLLA PLASTAPPLICANT

VS

10 **BALAIMU MUWANGA KIBIRIGE T/A KOWLOON GARMENT INDUSTRY**

..... RESPONDENT

BEFORE LADY JUSTICE FLAVIA SENOGA ANGLIN

RULING

This application for stay of execution brought under S.98 CPA, S.33 Judicature Act, 0.43 r 5
15 C.P.R and 0.51 rules 1, 2 C.P.R.

The Applicant seeks to stay the execution of the orders in Miscellenous Application 124
pending final determination of C.A. 122/13.

20 Costs of the application were also applied for.

The application is supported by the affidavit of the Applicant.

25 There is an affidavit in rejoinder to the Respondent's affirmation and a supplementary
affidavit in reply.

The application was called for hearing on 28.04.16 and proceeded without Counsel for the
Applicant who was absent without giving any reasons.

Going through the application, Counsel for the Respondent submitted that she was not contesting the application for stay, provided the Applicant furnishes security for costs and for due performance of the decree within fourteen days.

5 The costs due to the Respondent were taxed and allowed at Shs. 9,464,040/- on 01.01.15 and the money has never been paid by the Applicant.

Counsel stated that if Applicant fails to furnish security, the order for stay ought to lapse and execution goes ahead.

10 Later Counsel for the Applicant appeared and Counsel for the Respondent was courteous to return to court.

Counsel for the Applicant then prayed to court that the conditions set should be favorable about 5%, given that the Applicant's machinery was attached by First Respondent and matter
15 is before the Court of Appeal.

Counsel for the Respondent reiterated her earlier submissions.

20 Since the application is not opposed the issue that remains is as to what would be reasonable as security for costs and for performance of the decree.

It is apparent that the Applicant is inundated with suits both before the High Court (in form of applications) and in the Court of Appeal.

25 The amount sought to be recovered in the present case is Shs. 9,464,040/- which the Applicant seeks stayed pending the disposal of Civil Appeal 122/2013.

Court finds that a figure of Shs. 5,000,000/- will suffice as security for costs and security for performance of the decree. It has been held by courts that ***“the requirement and insistence on a practice that mandates security for the entire decretal amount is likely to stifle appeals”***. See **Tropical Commodities Suppliers vs. International Credit Bank**.
30

The Applicant to deposit the money with court within two weeks from the date of this ruling. Each party should bear its own costs of this application.

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FLAVIA SENOGA ANGLIN

JUDGE

05.05.16