



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KITALE

CIVIL CASE NO. 8 OF 2018

HENRY SIMON NYANGAU.....PLAINTIFF/APPLICANT

VERSUS

EDNA CHERONO BORE.....1ST DEFENDANT/RESPONDENT

SPIRE BANK LTD.....2ND DEFENDANT/RESPONDENT

PAMPA CHERUSCARIA LTD.....3RD DEFENDANT/RESPONDENT

JOSEPH M. GIKONYA T/A GARAM

INVESTMENT AUCTIONEERS.....4TH DEFENDANT/RESPONDENT

R U L I N G

1. The application herein dated 14/8/2018 is the 3rd one to be filed by the applicant to seek stay of sale of Land parcel No. Kitale Municipality Block 2116/1050 by the 2nd Respondent in realisation of its statutory power of sale. It further seeks stay pending an intended appeal.

2. I have perused the proceedings herein and specifically the lengthy decision of my brother in ELC court Judge Mwangi Njoroge dated 4/7/2017. Save for the prayer number (e) that the parties be granted 60 days to attempt an alternative settlement, I find the other issues raised by the applicant similar to these raised before Njoroge J.

3. For the above reasons I shall not waste much judicial time. Between July 2018 and todate, I presume that the applicant as well as the the 2nd Respondent have made an attempt to settle the liability.

4. Having perused the pleadings herein I am inclined to dismiss the application herein dated 14/8/2018 with costs to the 2nd, 3rd and 4th Respondents. The interim orders of injunction earlier issued are vacated.

Delivered, signed and dated at Kitale this 29th day of October, 2018.

H.K. CHEMITEI

JUDGE

29/10/18

In the presence of:

Karani for Applicant

No appearance for Respondents

Court Assistant – Kirong

Ruling read in open court.