**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MISC. APPLICATION NO. OF 2021**

**XXX………………………............................................................................APPLICANT**

**-VERSUS-**

**YYY……..………………………………….………………….................................RESPONDENT**

## Notice Of Motion

*(Under section 3A of the Civil Procedure Act, Order 51 Rule 1 of the Civil Procedure Rules and all enabling provisions of the law.)*

**Take Notice** that this Honourable Court shall be moved on the ....................................... day of ..............................., 20…. at 9:00 O’clock in the forenoon or so soon thereafter for hearing of an application on the part of Counsel for the Applicant **For ORDERS: -**

1. **THAT** the Honourable trial Judge be pleased to recuse himself from the conduct of this matter;
2. **THAT** the Honourable trial Judge be pleased to order that matter be heard and determined in a different and/or another court in the Division;
3. **THAT** Costs for this application be provided for.

**Which Application** is based on the grounds that:-

1. **THAT** on ………… the trial Judge did issue an order converting the certificate of taxation dated ………… to a decree and judgement.
2. **THAT** subsequent thereto, the trial Judge did order the Respondent herein to pay monthly installments of Kshs. ……………beginning ……………… while in the same breath staying execution of the said decree.
3. **THAT** despite failure to comply with the said orders by the Respondent, erroneously and in bad taste, the trial Judge has continued to issue a stay of execution of the said decree and as a consequence thereof continues to step on the applicant’s toes.

**WHICH APPLICATION** is further supported by the annexed affidavit of XXX**,** the Plaintiff/Applicant and on such further or other grounds as may be adduced at the hearing hereof.

**DATED** at **NAIROBI** this **……………….**day of **…………………………………………….. 2021**.

**.....................................................................................**

**CM ADVOCATES LLP**

**ADVOCATES FOR THE PLAINTIFF/APPLICANT**

**DRAWN & FILED BY:**

**CM ADVOCATES LLP**

I & M BANK HOUSE, 7TH FLOOR

2NDNGONG AVENUE

P.O. BOX 22588-00505

**NAIROBI.**

**EMAIL:** [law@cmadvocates.com](mailto:law@cmadvocates.com)

**TEL:**

**TO BE SERVED UPON:**

(DEFENDANT (S))

ADDRESS

**NOTE:** ***If any party served does not appear at the place and time above-mentioned, such order may be made and proceedings taken as the court may think just and expedient.***

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MISC. APPLICATION NO. OF 20….**

**XXX……………………….............................................................................APPLICANT**

**-VERSUS-**

**YYY……..………………………………….………………….................................RESPONDENT**

**SUPPORTING AFFIDAVIT**

I, **XXX,** an advocate of the High Court of Kenya and a resident of Nairobi and of P.O Box ………… Nairobi in the Republic of Kenya do hereby make oath and state as follows:-

1. **THAT** I am the above named person practicing in the name and style of ………………………fully conversant with the issues herein hence competent to swear this affidavit.
2. **THAT** on ……………..the trial Judge did issue an order converting the certificate of taxation dated ………………. to a decree and judgement.
3. **THAT** subsequent thereto, the trial Judge did order the Respondent herein to pay monthly installments of Kshs. …………………. beginning ……………….. while in the same breath staying execution of the said decree.
4. **THAT** the Respondent herein has variously failed, neglected and or refused to comply with the orders of this Honourable court.
5. **THAT** further, erroneously and in bad taste, the trial Judge has blatantly continued to issue a stay of execution of the said decree and as a consequence thereof continues to step on the applicant’s toes.
6. **THAT** in view of the foregoing, it is manifest that the trial Judge is stalling the process of execution of the said decree.
7. **THAT** accordingly, for the ends of justice to be met, it is only fair that the Honourable Judge does cease in conducting this matter.
8. **THAT** I swear this affidavit in support of the firm’s application filed herewith and urge this honourable court to grant the orders sought herein.
9. **THAT** all what is stated to herein is true to the best of my knowledge information and belief.

SWORN by the said

**XXX**

At Nairobi this day of 20… ………………………………..

**BEFORE ME**

**COMMISSIONER FOR OATHS**

**DRAWN & FILED BY:**

**CM ADVOCATES LLP**

I & M BANK HOUSE, 7TH FLOOR

2NDNGONG AVENUE

P.O. BOX 22588-00505

**NAIROBI.**

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