



**Kenya Qatar Diaspora Sacco v Obiero (Civil Appeal E523 of 2021)
[2024] KEHC 11521 (KLR) (Civ) (30 September 2024) (Directions)**

Neutral citation: [2024] KEHC 11521 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E523 OF 2021

RC RUTTO, J

SEPTEMBER 30, 2024

BETWEEN

KENYA QATAR DIASPORA SACCO APPELLANT

AND

MICHEAL ONYANGO OBIERO RESPONDENT

DIRECTIONS

1. The appellant being aggrieved by the decision of the Co-operative tribunal delivered on 29th July, 2021 filed a Memorandum of Appeal dated 18th August 2021 seeking that the judgment of the Co-operative Tribunal be set aside for being against the well settled doctrine of audi alteram partem; they be allowed to file a defence in the lower court; and the claim be remitted back to the trial court for fresh trial. The Appeal was based on six grounds of appeal.
2. Also filed was a Chamber Summon Application under Certificate of Urgency all dated 19th August 2021 seeking to stay the execution on the order given by the trial court on 29th July 2021 until the application is heard and determined and to stay the execution of the order given by the trial court on 29th July 2021 until this appeal is heard and determined.
3. A perusal of the file shows that both the Appellant and Respondent filed their respective submissions (dated 1st February 2022 and 19th July 2022) to the Application. Following this, the Court proceeded to determine the Application and in a Ruling dated 9th December 2022 the court granted the following orders;
 - a. Execution of the judgment of the Co-operative Tribunal entered on 29th July 2021 be stayed pending hearing and determination of the Appeal;



- b. The Appellant to deposit a sum of kshs 600,000/- in a joint interest earning account of both advocates or in court within 45 days hereof
 - c. In default of making the deposits execution to issue.
 - d. Costs of the application shall follow the outcome of the Appeal.
3. After the delivery of the Ruling this matter was scheduled for mention on 5th July 2023 but the court was not sitting. It was rescheduled to 15th April 2024, and later to 9th May 2024 when in the presence of Counsel for the Appellant the Deputy Registrar flagged it for hearing during the Rapid Result Initiative (RRI) period. Subsequently on 14th May 2024 the Honourable Deputy Registrar indicated that the matter was ready for RRI.
 4. On 6th June 2024, during the RRI period, this matter was placed for mention before me. None of the parties appeared in court and following the earlier proceedings, I was under the impression that this appeal was ripe for determination and I proceeded to issue a judgment date in the absences of the parties.
 5. At the time of writing the judgment, and upon a thorough scrutiny of the file, I observed that the Record of Appeal has not been filed and the Appeal hadn't even been admitted for hearing. Clearly, upon the stay orders being granted the appellants retreated and went back to slumber. From the record of proceedings, it is clear that the Appellant has also not made any attempt or taken steps to move the court. Consequently, I give the following directions;
6.
 - i. The Appellant to file and serve the Record of Appeal together with his submissions within the next 14 days.
 - ii. The Respondent to file and serve his submissions within 7 days of receipt of the Appellant submissions.
 - iii. If the Appellant fails to file and serve the Record of Appeal within the stipulated period in (i) above, the Appeal will stand dismissed with no orders as to costs and the orders of stay of execution granted on 9th December 2022 shall stand vacated.
 - iv. The Deputy Registrar to ensure that the directions issued herein are served upon the Parties by close of business tomorrow 1st October 2024.
 - v. Mention on 6th of November 2024 before the Presiding Judge Civil Division for further directions.

Orders accordingly.

RHODA RUTTO

JUDGE

Delivered, Dated and Signed this 30th day of September, 2024.**

For Appellants:

For Respondent:

Court Assistant: Peter Wabwire

