



**New Milimani Sacco Limited v Sacco Societies Regulatory Authority (Civil Case 309 of 2016) [2024] KEHC 15001 (KLR) (Civ) (28 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15001 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CIVIL  
CIVIL CASE 309 OF 2016  
TW OUYA, J  
NOVEMBER 28, 2024**

**BETWEEN**

**NEW MILIMANI SACCO LIMITED ..... PLAINTIFF**

**AND**

**SACCO SOCIETIES REGULATORY AUTHORITY ..... DEFENDANT**

**RULING**

**Backgrounds Facts**

1. At the onset, New Milimani Sacco Limited (hereafter the Plaintiff) filed suit against Sacco Societies Regulatory Authority (hereafter the Defendant) vide the plaint dated 8.11.2016 which suit is founded on the tort of defamation. Therein, the Plaintiff sought the sum of Kshs. 522,308,287/- being compensation for loss/damage occasioned to it as a result of defamatory publications allegedly made by the Defendant on 10.09.2015, plus costs of the suit and interest thereon.
2. Upon service of summons, the Defendant entered appearance and filed its statement of defence and counterclaim dated 25.01.2017 and amended on 15.06.2017. By way of the statement of defence, the Defendant denied the averments in the plaint and liability. Through its counterclaim, the Defendant sought reliefs in the nature of an order prohibiting the Plaintiff from undertaking and/or continuing to undertake deposit-taking sacco business; a further order to the effect that the Defendant be authorized to supervise the winding down of existing deposit-taking business activities by the Plaintiff; and costs of the counterclaim.
3. Subsequently, the Defendant filed the Notice of Motion dated 15.06.2017 (the first application) seeking various orders; including an order directing the Plaintiff to deposit a sum of Kshs. 25,000,000/- in an interest earning account in the joint names of the parties' respective advocates within seven (7) days of the order, failing which the suit be dismissed with costs. The record shows that the Plaintiff



- opposed the first application by way of the replying affidavit sworn by its Chairman, Julius Kiburi Wambugu, on 1.08.2017; to which the Defendant rejoined with the further affidavit sworn by its Chief Executive Officer (CEO), John Mwaka, on 30.10.2017. Upon close of submissions, Kamau, J. *vide* the ruling delivered on 16.05.2019 allowed the aforesaid application on the terms that the Plaintiff deposits a sum of Kshs. 10,000,000/- in a joint interest earning account within 60 days from the date of the said ruling, failing which the Defendant would be at liberty to take appropriate steps to safeguard its interests.
4. The record shows that soon thereafter, the Defendant moved the court by way of the Notice of Motion dated 28.08.2019 (the second application) seeking the dismissal of the Plaintiff's suit for want of compliance with the aforementioned ruling and order. The second application was likewise opposed by the Plaintiff. Upon consideration thereof, Kamau, J. allowed the said application as prayed, by way of the ruling delivered on 26.05.2020.
  5. It is apparent from the record that thereafter, the Defendant filed a Party and Party Bill of Costs dated 12.05.2021 (the Bill of Costs) against the Plaintiff, for the sum of Kshs. 24,995,860/- which was scheduled for taxation before the taxing master, in the absence of any response by the Plaintiff. During the intervening period, however, the Plaintiff filed the Notice of Motion dated 25.05.2022 (the third application) seeking *inter alia*, an interim order arresting the taxation ruling as well as a substantive order for time to interrogate and defend the impugned Bill of Costs. When the matter therefore came up before Meoli, J. on 23.06.2022, the said Judge ordered; by consent of the parties herein; that the taxation proceedings be set aside with no order as to costs, and the matter be taxed afresh on 2.08.2022 before the taxing master.
  6. From the record, it is apparent that when the matter came up in court on 18.08.2022 both the Plaintiff and its advocate were absent and hence the taxing master slated the ruling in respect of the Bill of Costs for 30.08.2022. Nevertheless, on the aforesaid 30.08.2022 the taxing master noted that the Plaintiff's erstwhile advocates; namely the firm of Okonu & Co. Advocates, had filed an application dated 1.08.2022 (the fourth application) seeking leave of the court to cease acting for the Plaintiff. In the circumstances, the taxing master declined to deliver her ruling on taxation and instead fixed the fourth application for hearing on 15.09.2022. When the parties subsequently attended court on the said 15.09.2022 followed by an attendance on 17.11.2022 the taxing master; in the absence of any objections thereto; allowed the fourth application as prayed and directed the Plaintiff's incoming advocate to file a notice of appointment within seven (7) days therefrom. The taxing master also gave directions on the filing of submissions by the respective parties. The record shows that thereafter, the matter came up in court on a few occasions, the last active step of which entailed a notice of withdrawal dated 6.07.2023 by the firm of M/S Muguku Kimathi & Co. Advocates who had initially taken over the matter on behalf of the Plaintiff, from the erstwhile advocates.
  7. It is apparent that no further substantive action took place in the matter, prior to its selection for disposal under the Rapid Results Initiative (RRI) exercise.

### **Directions**

8. From a perusal of the court proceedings, it is apparent that the matter was slated for judgment before this court. However, flowing from the background facts, it is apparent that the suit was erroneously listed as coming up for judgment, since as earlier mentioned, the suit stood dismissed as from 26.05.2020 pursuant to the aforementioned ruling delivered by Kamau, J. There is nothing on the record to indicate that the said ruling was either varied, set aside or otherwise challenged.



9. As per the record, the matter was pending taxation of the Bill of Costs, at the time of its referral for the RRI exercise.
10. In view of all the foregoing circumstances, this court hereby issues the following directions:
  - a. That the file in respect of the present suit be placed before the Deputy Registrar-Civil Division within seven (7) days of this day.
  - b. That further to the above, the parties do hereby take a date before the Deputy Registrar-Civil Division on priority basis, for purposes of taking directions on taxation of the Party and Party Bill of Costs dated 12.05.2021.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 28<sup>th</sup> DAY OF November, 2024**

**HON. T. W. OUYA**

**JUDGE**

For Appellant.....n/a

For Respondent.....n/a

Court Assistant.....martin

Ruling to be posted on CTS and parties notified

