



Rachier & Amollo LLP v Kenya Bureau of Standards; National Bank of Kenya & 3 others (Garnishee) (Miscellaneous Cause E237, E238, E239, E240, E241, E247, E248 & E249 of 2022 (Consolidated)) [2022] KEHC 12482 (KLR) (Commercial and Tax) (26 August 2022) (Ruling)

Neutral citation: [2022] KEHC 12482 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX**

**MISCELLANEOUS CAUSE E237, E238, E239, E240,
E241, E247, E248 & E249 OF 2022 (CONSOLIDATED)**

DO CHEPKWONY, J

AUGUST 26, 2022

BETWEEN

RACHIER & AMOLLO LLP CREDITOR

AND

KENYA BUREAU OF STANDARDS JUDGMENT DEBTOR

AND

NATIONAL BANK OF KENYA GARNISHEE

COOPERATIVE BANK OF KENYA GARNISHEE

KENYA COMMERCIAL BANK LIMITED GARNISHEE

SAFARICOM LIMITED GARNISHEE

RULING

1. On 19th August, 2022, this matter came up for parties to highlight their respective submissions in respect of the application dated 2nd August, 2022 filed by the Judgment Creditor and 4th August, 2022 filed by the Judgment Debtor.
2. In winding up his highlight, Mr. Nyaanga, counsel for the Judgment Debtor requested that the court allows the Judgment Debtor to open an account in which it can deposit 50% of the decretal amount and they be allowed to operate the other accounts. The reasons given for this is that the Judgment Debtor's operations have been stalled and it is unable to pay salaries due to the freeze on all its accounts. Counsel for the Judgment Debtor invited the court to take judicial Notice of the important functions performed by the Judgment Debtor which include inspection, market surveillance, products



conformity among others. This was vehemently opposed by Dr. Arwa, counsel for the Judgment Creditor who stated that just because the Judgment Debtor operates important public functions, does not mean it should be given preferential treatment as if they are above the law yet, the Judgment Creditor is entitled to full settlement of the decretal amount.

3. It is not denied that the Judgment Creditor has a decree which is pending execution and is subject of the garnishee proceedings herein, which are also in order as a mode of execution. It is also not in dispute that the Judgment Debtor is an agency which carries our public functions.
4. I have taken into consideration the predicament the Judgment Debtor finds itself in view of the Garnishee *Nisi* Orders in existence against it and the interests of the Judgment Creditor who is entitled to full settlement of the decree herein. In public interest, and bestowed with the duty to accord all parties in a dispute justice, I find there is need to protect the interests of the two contesting parties by securing the amount in contestation.
5. I therefore order that the orders of Garnishee *Nisi* issued on 22nd day of April, 2021 in respect of the cited accounts be and is hereby lifted subject to the Judgment Debtor depositing the entire decretal sum on an escrow account in the names of counsel for the Judgment Debtor and Judgment Creditor.

It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT NAIROBI THIS 26TH DAY OF AUGUST , 2022.

D. O. CHEPKWONY

JUDGE

