



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

MISC. CIVIL APPL. NO. 205 OF 2019

SHEM ODUOR ADIEDO.....APPLICANT

-VERSUS-

BENARD OLWENY AGUTU.....1ST RESPONDENT

OUMA NJOGA & CO. ADVOCATES.....2ND RESPONDENT

RULING

The Applicant, **SHEM ODUOR ADIEDO**, filed the application dated 9th December 2019, seeking orders to compel the 2nd Respondent, **NJOGA AND COMPANY ADVOCATES**, to release to him the sums of money which had been awarded as compensation in **CIVIL APPEALS NOS. 88 OF 2011; 89 OF 2011; 90 OF 2011 and 91 OF 2011**.

1. It is common ground that the 2nd Respondent was the Applicant's advocate in the 4 Civil Appeals which were at the High Court.
2. In the said appeals, the Applicant herein was the Respondent.
3. Following the decisions by the High Court, the Applicant asked his erstwhile advocate to release to him the money which been deposited by the Appellants.
4. On 5th May 2021, Mr. Songok Advocate informed this Court that the former Law Firm of Nyaundi Tuiyot & Company Advocates would comply with any orders which the Court would make in this matter.
5. He further told the Court that some of the money in issue was held in a Joint Account in the names of the 2 Law Firms which represented the parties in the four appeals.
6. In effect, the 2nd Respondent was not holding all the funds.
7. As for the funds in the joint account, the 2nd Respondent could not have single-handedly accessed the said funds, so as to thereafter pay the same to the Applicant.
8. The Applicant is entitled to the compensation which was awarded to him by the courts.
9. Accordingly, I direct the **FAMILY BANK** to forthwith provide this Court with the full statement of the Joint Account No. [...], which is held in the names of Nyaundi Tuiyot & Company Advocates, with Ouma Njoga & Co. Advocates.
10. Immediately after receipt of the bank statement, this court will give further directions and orders about the funds in the said account.
11. I also direct the 2nd Respondent to forthwith provide the Court with a detailed statement of the money which is being held by the Law Firm. The said accounts should be filed and served within the next 7 days.
12. Alongside the said Accounts from the 2nd Respondent, the certified copies of each of the Certificates of Taxation issued in the respective cases, should be lodged with this Court.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 28TH DAY OF JULY 2021

FRED A. OCHIENG

JUDGE