



REPUBLIC OF KENYA



KENYA LAW
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**Refri-Electricals v Netplan East Africa Limited (Civil Case 473 of 2011)
[2020] KEHC 2 (KLR) (Commercial and Tax) (28 October 2020) (Ruling)**

Neutral citation: [2020] KEHC 2 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE 473 OF 2011
WA OKWANY, J
OCTOBER 28, 2020**

BETWEEN

ISAMU REFRI-ELECTRICALS PLAINTIFF

AND

NETPLAN EAST AFRICA LIMITED DEFENDANT

RULING

1. The applicant seeks the following orders in the application dated 6th September 2019: -
 1. That Andrew Ayes, being the Managing Director of the defendant (judgment debtor) herein be summoned to attend this court for examination on the judgment debtor's ability to pay the decretal sum, costs and interest in this case.
 2. That in the alternative this court in the interest of justice and fairness be pleased to grant leave to allow the lifting of the corporate veil and order Andrew Ayes, as the Managing Director of the defendant company to personally settle the sum of Kshs 3,373,074/- being the decretal sum of costs.
 3. That costs of this application be provided for.
2. The application is supported by the applicant's advocate's affidavit and is premised on the grounds that: -
 1. The plaintiff is the decree-holder of the sum of Kshs 3,109,817.40/=plus costs of Kshs 263,257/-.



2. The decree holder has been unsuccessful in executing the decree issued by this Honourable court against the judgment debtor as it has been unable to trace any of the judgment debtor's assets.
 3. The defendant's interest herein stands to suffer prejudice if the application is not granted.
 4. The plaintiff believes that the said director has concealed and/or hidden the assets of the Debtor in a deliberate effort to defeat the plaintiff from recovering the debt.
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3. A perusal of the court file indicated that the respondent did not oppose the application despite service with the same.
 4. I therefore find that the application is unopposed.
 5. I further find that the application is merited in view of the fact that the defendant has not settled the decretal sum.
 6. I therefore allow the application as prayed with costs to the applicant.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT NAIROBI THIS 28TH DAY OF OCTOBER 2020 IN VIEW OF THE DECLARATION OF MEASURES RESTRICTING COURT OPERATIONS DUE TO COVID -19 PANDEMIC AND IN LIGHT OF THE DIRECTIONS ISSUED BY HIS LORDSHIP, THE CHIEF JUSTICE ON THE 17TH APRIL 2020.

W. A. OKWANY

JUDGE

In the presence of:

Mr. Kamau for Mungai for plaintiff.

No appearance for defendant

Court Assistant: Margaret

