



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KITALE**

**MISC. CIVIL APPLICATION NO. 74 OF 2019**

**JONAS MISTO VINCENT KUKO.....APPLICANT**

**VERSES**

**KIARIE & CO ADVOCATES.....RESPONDENT**

**RULING**

1. On 10<sup>th</sup> February 2020, this court vide its ruling on the Applicant's application dated 23<sup>rd</sup> May 2019 permitted him to settle the Advocates client bill amounting to kshs. 3,145,700 by way of instalments of Kshs. 50,000 per month.
2. It appears that the Applicant did not honour the said ruling and has instead file almost a similar application dated 9<sup>th</sup> March 2020 seeking *inter alia* that he be allowed to settle the debt by instalments of kshs 500,000 by 30<sup>th</sup> June 2020 and thereafter kshs. 30,000 per month.
3. The above application was premised on the Respondent filing a notice to show cause against the applicant. The same is contained in his supporting affidavit sworn on the same date.
4. The respondent vide the replying affidavit of **PETER KIARIE NDARWA** sworn on 31<sup>st</sup> March 2020 has opposed the application stating that it was not merited for the reason that the Applicant has failed to honour the ruling of this court made earlier. The respondent went further to state that the applicant to date has totally failed to pay the decretal sum and therefore the application should be dismissed.
5. The court has perused the application and is of the considered opinion that the same is a total abuse of the court process. This is for the simple reason that the applicant has failed to comply with the earlier ruling of the court and has failed to demonstrate that he has paid any amount to the decree holder. It would have been a sign of good faith if the applicant had demonstrated a semblance of compliance with the order earlier given.
6. As at the date of this ruling the applicant has not made any payment and this court cannot countenance such blatant breach of its orders. He has not demonstrated any reason why he has failed to comply.
7. In the premises, the application dated 9<sup>th</sup> March is frivolous and totally vexatious and an abuse of the court process. The same is hereby dismissed with costs to the Respondent.

**Dated, Signed and Delivered at Kitale this 26<sup>th</sup> day of October 2020.**

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**H. K. CHEMITEI**

**JUDGE**

**26/10/2020**

**In the presence of:-**

**Mr. Ndarwa for the Applicant**

**Mr Ruto for Walter for Respondent**

**Court Assistant – Kirong**

**Ruling delivered in open court.**