



Okullo v China Wuyi Company Limited; Baraza & another (Third party) (Environment and Land Case 289 of 2017) [2025] KEELC 5282 (KLR) (17 March 2025) (Ruling)

Neutral citation: [2025] KEELC 5282 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENT AND LAND CASE 289 OF 2017**

**MN KULLOW, J
MARCH 17, 2025**

BETWEEN

GEORGE AWUOR OKULLO APPLICANT

AND

CHINA WUYI COMPANY LIMITED DEFENDANT

AND

JACK BARAZA THIRD PARTY

BENARD ALIWA THIRD PARTY

RULING

1. The Plaintiff/Decree holder/Applicant had by way of a Notice of Motion dated 19/11/2023 brought under Section 34, 63(b) and 94 of the [Civil Procedures Rules](#) and order 50 Rule 1 of the [Civil Procedures Rules 2010](#) sought for the following Order:
 - i. Spent
 - ii. That the honourable court be pleased to grant leave to the Plaintiff/Decree Holder to execute the decree dated 4/12/2019 before the taxation of cost.
2. The Application is based on the grounds that though Judgment in the matter herein was entered against the Defendant on 3/12/2019, the same is yet to be settled by Judgement Debtor.
3. Further that though a Bill of Costs was handed before the Deputy Registrar of the court, and the same heard as Ruling has been delivered on the same since 18/8/2020 and ... sum is colossal and stands at Kshs. 13,150,430/- as at 4/12/2019 and continues to accrue interests.
4. Lastly that the Judgement Debtor is a foreign based Company and they may not be solvent at time of execution. – Finally



5. The Application was further supported by the Affidavit of Robert Ouma Njoya Advocates who deponed and expounded on the facts as stated in the grounds and annexed hereto the Application.
6. I have considered the Application and the grounds of opposition hereto and the Supporting Affidavit and I find that the Application is not opposed. However, the main issue for determination is whether the court can proceed to order for execution of a decree which a Ruling before the Taxing Master is still pending.
7. A Decree essentially contains the Judgment of the court together with costs of the suit to be taxed by the Taxing Master. The Applicant in the Instant Case contends that the Ruling on the Bill of Costs has been pending before the Deputy Registrar since 18/8/2020. However, I have looked at the Annexures of the Application and I find no effort on the part of the Applicant to administratively enquire or request for a date when the said Ruling will be delivered and further also the intervention of this court on an outstanding Ruling before a subordinate court before it will amount to acting outside its Jurisdiction and I consequently find that the notice of Motion dated 19/11/2023 is not merited and the same is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 17TH DAY OF MARCH, 2025.

MOHAMMED N. KULLOW

JUDGE

In the presence of:

Vincent Court Assistant

No appearance for the Plaintiff

No appearance for the Defendant

