



**Ransley, Mc Vicker & Shaw Advocates v Redstone Management Limited (Environment and Land Miscellaneous Application 69 of 2018) [2022] KEELC 15649 (KLR) (20 December 2022) (Ruling)**

Neutral citation: [2022] KEELC 15649 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION 69 OF 2018  
LN MBUGUA, J  
DECEMBER 20, 2022**

**BETWEEN**

**RANSLEY, MC VICKER & SHAW ADVOCATES ..... ADVOCATE**

**AND**

**REDSTONE MANAGEMENT LIMITED ..... CLIENT**

**RULING**

1. This suit was filed as a reference from the taxing masters ruling on the client/advocates bill of costs. *Vide* a ruling dated November 2, 2021, this court entered judgment against the client, (Redstone Management Limited) in favour of the advocate (Ransley MC Vicker & Shaw advocates).
2. Two applications are now before me for determination. One is dated July 26, 2022 filed by the advocate and it relates to execution of the judgment. The other is dated September 30, 2022, filed by the clients and it generally refers to a stay of execution. Even though the application of July 26, 2022 is the earlier one, logic demands that I first deal with the latest application.

**Application Dated 30.9.2022**

3. The client (Redstone) prays for the following orders:
  - a. That the honourable court be pleased to grant leave to the law firm of Litoro & Ombebu Advocates to come on record and act on behalf of the decree holder/applicant in place of the law firm of CM Advocates LLP in the conduct of this suit and as such the notice of change of advocates dated September 29, 2022 be deemed to be duly filed.
  - b. that pending inter parties hearing and determination of this application, the honorable court be and is hereby pleased to extend and or enlarge the stay of execution orders issued on December 15, 2021 against the judgment of Hon Lady Justice L Mbugua delivered on November 2, 2021 and all consequential decrees or orders arising therefrom.



- c. That the honourable court be and is hereby pleased to issue appropriate directions on the expedited inter parties hearing for the application herein.
  - d. That pending the hearing and determination of the appellant's appeal COACA No E219 of 2022 the honorable court be and is hereby pleased to issue an order of stay of execution against the judgment of Hon Lady Justice L Mbugua delivered on November 2, 2021 and all consequential decrees or orders arising therefrom.
  - e. That the honourable court be and is hereby pleased to issue any further directions or orders as may be appropriate to give effect to the order sought herein.
  - f. That the cost of this application abide the outcome of the appeal.
4. The application is premised on the grounds on the face of the application and on the supporting affidavit of one Priscilla Mary Ransley a director of the client company. The applicant contends that they lodged an appeal in COA-CA No E 219 of 2022 which appeal has overwhelming chances of success. The client avers that the stay orders given earlier on have since lapsed.
  5. The advocate has opposed this application via the replying affidavit dated October 25, 2022 sworn by one Virginia Wangui shaw a partner in the advocates firm. It is averred that the clients had filed a similar application for stay of execution where they got a 4 months stay. It is also contended that the appeal has not been served, and that there was delay in filing the alleged appeal.
  6. I have considered all the issues raised herein including the rival submissions dated November 16, 2022 and November 15, 2022 filed by the client and the advocate respectively. I find that after this court delivered a judgment on November 2, 2021, the client sought leave to appeal as well as a stay for 30 days, of which both prayers were allowed by this court.
  7. The client then filed an application dated November 30, 2021 seeking orders of stay of execution of the judgment of November 2, 2021 pending the hearing and determination of an intended appeal. The court granted a stay of execution for a period of 4 months "in order to grant the client an opportunity to present their case at the court of appeal".
  8. The client has since lodged an appeal at the Court of Appeal ostensibly dated April 14, 2022. It follows that this court is no longer seized of the substantive matters relating to the appeal. Having pronounced itself on matters stay of execution earlier on, the court cannot revisit the issue all over again.
  9. In the circumstances, the application dated September 30, 2022 is found to have no merits, the same is dismissed with costs to the advocate, save that the prayer for Litoro & Ombebu Advocates to come on record is hereby allowed.

#### **Application Dated 26.7.2022**

10. The advocate seeks the following orders in the above application:
  - a. That in the interim, pending the hearing and determination of this application, this honourable court be pleased to issue a prohibitory order stopping the registration or any further dealings in respect of all the property known as land reference number 1160/644 (deed plan number 214585), situated in the city of Nairobi and registered in the name of the respondent herein, pending further orders of this honourable court.
  - b. That the subject property namely land reference number 1160/644 (deed plan number 214585) to be advertised and sold by public auction to recover the total outstanding decretal



sum of Kshs 5,227,477.97/= together with further accrued interest thereon until payment in full.

- c. That the respondent be ordered to grant free and unlimited access to the subject property for the purpose of inspection and valuation.
  - d. That this honourable court be pleased to allocate a convenient date before the deputy registrar for the settlement of the terms and conditions of sale of the property.
  - e. That the costs of valuation, auctioneers and other related expenses be paid from the proceeds of sale herein.
  - f. That the costs of this application be borne by the respondent.
11. The application is premised on the grounds set out on the face of the application and on the replying affidavit of the advocate. It is averred that the client has failed to pay the amounts mentioned in the judgment plus accrued interest which stands at Ksh 5,227,477 as at July 19, 2022.
  12. The advocate contends that the decree holder engaged auctioneers to attach the judgment debtor's movable property to recover the decretal sum and the auctioneers proceeded to proclaim the goods. However, the objectors herein filed a notice of motion application dated May 25, 2022 contesting the said attachment and proclamation, which application was allowed by the court on July 18, 2022. Thus no recoveries were made and there are no more attachable assets to fetch the outstanding amount.
  13. The advocate further avers that the client is the registered owner of the property known as land reference number 1160/644 (deed plan number 214585), the only asset that can be attached to realize the full decretal amount and accrued interest. The applicant is apprehensive that the subject property may be transferred or alienated in order to frustrate the execution of the decree.
  14. The client has opposed the application *vide* a replying affidavit dated October 25, 2022 sworn by Priscilla Mary Ransley. The client is challenging the application on the basis that there is a pending appeal No E219 of 2022 at the Court of Appeal. The client avers that it stands to lose its valuable piece of land if the application is allowed.
  15. I have considered all the issues raised in this application. This court has already pronounced itself on the clients application dated September 30, 2022. I also find that there is no stay ordered by the Court of Appeal.
  16. The orders sought in the current application are geared towards implementation of the judgment of this court. In that regard, I find that the application dated July 26, 2022 is merited. The same is allowed with costs to the advocate.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 20<sup>TH</sup> DAY OF DECEMBER, 2022 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:-

Wangechi Wahome holding brief for Sisule for the Advocate.

Muhuyu holding brief for Litoro for the Client

Court assistant: Eddel

