



**Rocca v Delta Connections Limited (Environment and Land Case
205 of 2020) [2025] KEELC 6082 (KLR) (18 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6082 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT AND LAND CASE 205 OF 2020
YM ANGIMA, J
SEPTEMBER 18, 2025**

BETWEEN

PAOLO ROCCA PLAINTIFF

AND

DELTA CONNECTIONS LIMITED DEFENDANT

RULING

1. By a notice of motion dated 30.04.2025 expressed to be filed pursuant to Order 22 Order 47, Order 51 Rule 1 of the Civil Procedure Rules 2010, Sections 1A, 1B, 3A, 38 and 44 of the [Civil Procedure Act](#) and all other enabling provisions of law the plaintiff sought the following orders;
 1. That the honourable court be pleased to issue a notice of attachment of the decree of the honourable court in Civil Suit No. 71 of 2020 and stay execution of the decree unless and until the notice is cancelled.
 2. That the honourable court be pleased to attach the decree issued in Civil Suit No. 71 of 2020 Delta Connections Ltd vs Mohamed Ali Motha & 5 Others towards the satisfaction of the entire decretal amount herein of Kshs. 100,000,000/= plus interests at the courts rates.
 3. That the judgment debtors be condemned to bear the costs of the application.
2. The application was based upon the grounds set out on the face of the motion and the contents of the supporting affidavit sworn by the plaintiff on 30.04.2025 and the annexure thereto. The gist of the application was that the defendant had not yet satisfied the decreed dated 21.02.2023 but there was a decree dated 30.04.2024 passed in favour of the defendant in Mombasa ELC No. 71 of 2020 which could be attached in satisfaction of the decree passed in this suit.
3. There is no indication of the defendant having filed a response to the application despite service.



4. When the application was listed for directions on 15.07.2025 it was directed that the same shall be canvassed through written submissions. The parties were consequently granted timelines within which to file and exchange their respective submissions. The record shows that the plaintiff filed written submissions dated 04.08.2025 but the defendant's submissions were not one record by the time of preparation of the ruling.
5. The court has considered the notice of motion dated 30.04.2025, the plaintiff's submissions as well as the material on record. Order 22 Rule 47 on which the application was based stipulates as follows;
 1. Where the property to be attached is a decree, either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made—
 - (a) if the decrees were passed by the same court, then by order of such court; and
 - (b) if the decree sought to be attached was passed by another court, then by the issue to such other court of a notice by the court which passed the decree sought to be executed, requesting such other court to stay the execution of its decree unless and until—
 - (i) the court which passed the decree sought to be executed cancels the notice; or
 - (ii) the holder of the decree sought to be executed or his judgment-debtor applies to the court receiving such notice to execute its own decree.
 - (2) Where a court makes an order under subrule (1)
 - (a), or receives an application under subrule (1)
 - (b) (ii), it shall, on the application of the creditor who has attached the decree of his judgment- debtor proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.
 - (3) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in subrule (1) shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner lawful for the holder thereof.
 - (4) Where the property to be attached in the execution of a decree is a decree other than a decree of the nature referred to in subrule (1), the attachment shall be made by a notice, by the court which passed the decree sought to be executed to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, where such decree has been passed by any other court, also by sending to such other court a notice to abstain from executing the decree sought to be attached until such notice is cancelled by the court from which it was sent.
 - (5) The holder of a decree attached under this rule shall give to the court executing the decree such information and aid as may be required.
 - (6) On the application of the holder of a decree sought to be executed by the attachment of another decree, the court making an order of attachment under this rule shall give notice of such order to the judgment-debtor bound by the decree attached; and no payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof, either through the court or otherwise, shall be recognized by any court so long as the attachment remains in force.



6. The defendant did not file any response to the application. It was not disputed that the decretal amount has not been paid as decreed on 21.02.2023. The defendant did not place before court any lawful justification or excuse why the decree passed in its favour on 30.04.2024 in Mombasa ELC No. 71 of 2020 should not be attached in execution of the decree dated 21.02.2023.
7. In the premises, the court is satisfied that the plaintiff's application dated 30.04.2025 is merited. As such, the court shall issue the relevant notice to the court which passed the decree in terms of Order 47 Rule (1) (b) of the Civil Procedure Rules, so that the plaintiff may apply for execution of the attached decree.
8. As a result, the court makes the following orders for disposal of the application date 30.04.2025;
 - a. A notice is hereby issued to the court which passed the decree in Mombasa ELC No. 71 of 2020- Delta Connections Ltd. vs Mohamed Ali Motha & 5 Others to stay execution of its decree dated 30.04.2024 until the plaintiff in this suit applies for execution of the said decree under Order 22 Rule 47 of the Civil Procedure Rules.
 - b. An order is hereby made attaching the decree in Mombasa ELC No. 71 of 2020- Delta Connections Limited vs Mohamed Ali Motha & 5 Others towards satisfaction of the decree in this suit.
 - c. The plaintiff is hereby awarded costs of the application.

RULING DATED AND SIGNED AT MOMBASA AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS ON THIS 18TH DAY OF SEPTEMBER 2025.

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Y. M. ANGIMA

JUDGE

In the presence of:

Court assistant Gillian

Ms. Mwangi holding brief for Mr. Maingi for plaintiff

No appearance for the defendant

