



Mandala and Co. Advocates v Preps International Limited (Environment & Land Miscellaneous Case E042 of 2022) [2024] KEELC 5105 (KLR) (2 July 2024) (Ruling)

Neutral citation: [2024] KEELC 5105 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND MISCELLANEOUS CASE E042 OF 2022**

JE OMANGE, J

JULY 2, 2024

BETWEEN

MANDALA AND CO. ADVOCATES APPLICANT

AND

PREPS INTERNATIONAL LIMITED RESPONDENT

RULING

1. On the 20th March, 2024 this matter came up for directions on the application dated 14th March, 2024 which had sought the following prayers;
 - a. Spent
 - b. That the honourable court be pleased to order the release of the deposited security/ decretal sum of Kshs. 350,000 to the Applicant Mandala & Co Advocates forthwith.
 - c. That the said sum be transferred to the Advocates Account Name Mandala & Company Account No 01136093156100 held at Cooperative Bank, Kenyatta Avenue Branch.
 - d. That the court to issue such orders and to give such directions to meet the ends of justice.
 - e. That costs of the application be in the cause.
2. The application was brought on the grounds that on the 18th January, 2024 the court ordered that stay of execution do issue on condition that the client deposit Kshs 350,000 as security for costs. That the client did deposit the said amount. That the application for review / reference dated 22nd February, 2023 was dismissed on 6th June, 2023. As such there is no pending application. As such the Applicant contended that the security for costs should be released to the Applicant.
3. On the 20th March, 2024 the court gave the Respondent leave to file a response and the Counsels leave to file submissions. When the matter came up today counsel for the Respondent indicated that there is



a pending application dated 6th September, 2023 which the court had not addressed in its ruling dated 18th January, 2024. That there is an application dated 25th April, 2023 which is also pending.

4. Counsel for the Applicant submitted that the application is unopposed as Respondent had not filed grounds of opposition or Replying Affidavit. Counsel insisted that there is no pending application.
5. It is clear that the Respondent did not file a response to the application. No good reason has been given for the failure to comply with the courts directions. Court orders should not be made in vain. On this ground alone, the application is unopposed and should be considered as such.
6. However, in the interest of considering the issues substantively, I have considered the statements by the Counsel for the Respondent which flow from the proceedings in this court hence are court records which the court has access to.
7. Contrary to the assertion of counsel for the Respondent that the court did not address the application dated 6th September, 2023, the court in paragraph 1, 10 and 11 did make reference to the said application which guided its final findings. If the Respondent had issues with the ruling the correct procedure should have been followed.
8. In paragraph 10 of its Ruling, the court also confirms that the application dated 22nd February, 2023 was dismissed on 6th June, 2023. I also note that in paragraph 10 of the Ruling the court noted that the Applicant had indicated that the only amount they are claiming is Kshs. 625,000 so the court agreed with the current Respondent that some amounts had been paid.
9. The record does not show that there is any other pending application. As such I find that the application by the Applicant is merited and is allowed as prayed.

RULING, DATED, SIGNED AND DELIVERED ON 2ND DAY OF JULY, 2024 VIA MICROSOFT TEAMS.

JUDY OMANGE

JUDGE

In the Presence of: -

-Mr. Mandala for the Applicant

-Mr. Njoroge for Respondent

-Court Assistant: Steve Musyoki

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