



**Nyanja Holdings Limited v Jamii Bora Bank Limited & another; Triple Eight Investments (K) Limited (Third party); Njihia (Appointed Receiver) (Civil Suit 1506 of 2000) [2025] KEHC 1471 (KLR) (Commercial and Tax) (14 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1471 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
CIVIL SUIT 1506 OF 2000  
FG MUGAMBI, J  
FEBRUARY 14, 2025**

**BETWEEN**

**NYANJA HOLDINGS LIMITED ..... PLAINTIFF**

**AND**

**JAMII BORA BANK LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**CITY FINANCE BANK LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**AND**

**TRIPLE EIGHT INVESTMENTS (K) LIMITED ..... THIRD PARTY**

**AND**

**SM NJIHIA ..... APPOINTED RECEIVER**

**RULING**

1. The court appointed receiver (hereinafter the receiver) was appointed in 2008 to manage the affairs of the plaintiff company (hereinafter the company). Upon conclusion of the receivership, he filed a final report and statement of accounts on the affairs of the company from August 2008 to February 2022.
2. He applied to court on 2<sup>nd</sup> March 2022 to be discharged of his duties, but the plaintiff filed a replying affidavit dated 21<sup>st</sup> April 2022 controverting the receiver's report. The plaintiff accused the receiver of failing to account for Kshs.39,213,677.05 in his final report. In response, the receiver filed a further affidavit dated 26<sup>th</sup> October 2023 and was subsequently cross examined in court by the plaintiff's counsel on 13<sup>th</sup> November 2024.



3. This court thereafter directed both parties to file written submissions which I have carefully considered alongside the affidavits and evidence filed by both parties.

### **Analysis and determination**

4. There is no dispute that the receiver collected a total of Kshs.110,564,517/- during the period he managed the plaintiff's property, with his remuneration amounting to Kshs.11,056,451/-. Additionally, he remitted Kshs.59,076,761/- to the joint accounts of the lawyers. The receiver further states that he incurred Kshs.320,625/- in costs for preparing the final accounts. However, the plaintiff accuses him of failing to account for Kshs.39,213,677.05 in his final report.

### **Accounting for the Collected Funds:**

5. These total collections of Kshs.110,564,517/- were made through two systems. In 2008, a manual collection system was used, generating Kshs.5,600,336/-. Subsequently, a computerized system was implemented, which collected Kshs.99,408,731/- in rent and Kshs.5,555,450/- in service charges.
6. From these collections, the receiver provided evidence of remittance as follows:
  - a. Kshs. 3,672,943.64 from the manual system
  - b. Kshs. 59,076,761/- from computerized rent collections
  - c. Kshs. 4,999,905/- from service charge collections
7. This brings the total remittance to Kshs.67,749,609/- against the figure claimed by the plaintiff of Kshs.59,076,761/-. This court notes that the figure given by the plaintiff as alleged remittances represents only one component of the total remittance and does not account for amounts collected under the manual system or from service charges.

### **Expenses incurred during receivership:**

8. The receiver has also provided a breakdown of expenses totaling Kshs.42,814,908/-, incurred during the management of the property. These expenses include management fees, VAT, disbursements, and letting fees under both the manual and computerized systems. The breakdown is as follows:
  - a. Kshs. 1,936,717.05 under the manual system
  - b. Kshs. 40,367,416.10 under the computerized system
  - c. Kshs. 629,445/- from service charge collections.
9. These figures are supported by documentation in the receiver's report, which the plaintiff has had access to during the proceedings. The court finds that the expenses incurred are adequately accounted for and substantiated.

### **Allegations of double payment and conflict of interest:**

10. The plaintiff raises concerns regarding payments made to Njihia Muoka And Rashid, a management company retained by the receiver. It is alleged that this company is indistinguishable from the receiver himself, creating a conflict of interest. The claim is unsubstantiated and I do find that in the absence of proof of any loss occasioned to the plaintiff, the receiver, acted within his court-sanctioned mandate, which allowed him to hire a management company to ensure the effective day-to-day running of the property.



11. In any case, the plaintiff had knowledge of this arrangement since 2008 and did not raise any issue then. He cannot now challenge it over a decade later.

**Service charge and reporting allegations:**

12. The plaintiff contends that certain rent and service charge collections between 2008 and 2017, as well as during select months in 2020 and 2022, were omitted from the receiver's report. However, the receiver has demonstrated that such collections are documented in the final report which were filed in court and served upon the parties.
13. The court also notes that service charge, was introduced through the computerized collection system, and that it was not applicable in 2008 and 2009. This fact was known to the plaintiff and their assertion of omission is therefore unfounded.

**Costs of preparing the final report:**

14. The plaintiff takes issue with the Kshs. 320,615/- charged for preparing the final report. The court finds this sum reasonable, given that the report spans over 400 pages and required extensive clerical and supervisory input. This amount covers costs incurred in tracing, collating, and compiling data over a 166-month period and is supported by evidence. In any case, the plaintiff has not presented what it terms to be a reasonable figure and comparisons that would be the basis of their challenge.
15. In the end, I find that the receiver has adequately accounted for the total sum of Kshs.110,564,517/- collected during the receivership period. The allegations of unaccounted funds are unsubstantiated, and the expenses incurred are reasonable and duly documented.
16. I add further that the receiver's actions, including the retention of a management company and the introduction of service charge, were consistent with the powers conferred upon him by the court. The plaintiff's belated objections to these actions are without merit.

**Disposition**

17. Accordingly, the prayers sought by the plaintiff are dismissed. The plaintiff shall bear the costs incurred by the receiver arising from this litigation to be agreed upon by parties within 30 days or referred to taxation.

**DATED, SIGNED AND DELIVERED IN NAIROBI THIS 14<sup>TH</sup> DAY OF FEBRUARY 2025.**

**F. MUGAMBI**

**JUDGE**

