



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kimani v Absa Bank Kenya PLC (Civil Suit E741 of 2024)  
[2025] KEHC 8314 (KLR) (Commercial and Tax) (13 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8314 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
CIVIL SUIT E741 OF 2024  
FG MUGAMBI, J  
JUNE 13, 2025**

**BETWEEN**

**BERNARD KARANJA KIMANI ..... APPLICANT**

**AND**

**ABSA BANK KENYA PLC ..... RESPONDENT**

**RULING**

**Background and Introduction**

1. Before the Court is an application dated 5<sup>th</sup> December 2024 brought under Order 20 Rules 1 and 3, Order 37 Rule 11 of the *Civil Procedure Rules*, Sections 1A, 3, 3A, and 18 of the *Civil Procedure Act* as well as Articles 20, 21, 23, 40, 43, 46, 47, 48, 50, and 159 of the *Constitution of Kenya*, 2010.
2. The application seeks the following substantive reliefs:
  - i. That the respondent Bank be directed to allow the applicant access to bank account number [particulars withheld] domiciled at ABSA Bank, Queensway Branch, including access to all account-related documents such as bank statements;
  - ii. That the applicant be granted temporary and full access to operate the said account, including the right to deposit into and withdraw from the account, pending the hearing and determination of the suit;
  - iii. That the Bank be compelled to provide a detailed statement of account from the date of opening to date; and
  - iv. That the costs of the application be borne by the Bank.



3. The application is supported by the grounds on its face and the affidavit sworn by Bernard Karanja Kimani. The applicant avers that he opened the said account in 1990, but shortly thereafter was violently attacked in a robbery where his personal documents including documents relating to his bank account were stolen. He suffered grave injuries, fell into a coma, and has since undergone prolonged recovery. During that period, the account allegedly became dormant and was eventually blocked, frozen, or closed by the Bank.
4. The applicant further contends that he continues to experience health complications and urgently requires access to the funds in the said account to seek treatment abroad. He asserts that despite the Bank's knowledge that the account holds funds belonging to him, he has been denied access. He avers that unless the orders sought are granted, he will suffer undue prejudice, including possible deterioration of his health.
5. The Bank did not file any response to the application. I have examined the affidavit of service on record and I am satisfied that the Bank was duly served. The application is therefore unopposed, even though this Court has an obligation to determine its veracity.

### **Analysis and Determination**

6. Order 20 Rule 1 of the *Civil Procedure Rules* establishes that where a suit seeks accounts and the defendant fails to show cause or raise any preliminary objection, the court may order the taking of proper accounts with all necessary inquiries and directions. This provision affirms the applicant's entitlement to disclosure of account details, especially where the account relationship is not denied.
7. The applicant has presented a credible explanation for his prolonged absence and inactivity on the account. He has also filed medical documents substantiating his health condition. In the absence of any rebuttal or explanation from the Bank, the applicant's averments remain unchallenged.
8. An account holder is entitled to access their account information and to operate it unless validly restrained by law or by a court order. The Bank has not demonstrated any legal justification for denying the applicant access to his account. In the circumstances, the Court finds that the application is meritorious.

### **Disposition**

9. Accordingly,
  - i. The respondent is directed to forthwith allow the applicant access to bank account number [particulars withheld] domiciled at ABSA Bank, Queensway Branch, including access to all related documents, such as bank statements;
  - ii. The respondent shall, within fourteen (14) days from the date of this ruling, provide the applicant with a full and detailed statement of account from the date of opening to the present;
  - iii. Pending the hearing and determination of the main suit, the applicant is granted interim access to operate the said account, including the right to deposit into and withdraw from the account, subject to standard banking verification procedures;
  - iv. The applicant shall have the costs of this application.

It is so ordered.

**DATED, SIGNED AND DELIVERED IN NAIROBI THIS 13<sup>TH</sup> DAY OF JUNE 2025.**

**F. MUGAMBI**



**JUDGE**

