



**JC v AC (Miscellaneous Application E011 of 2022)
[2024] KEHC 3198 (KLR) (12 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3198 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
MISCELLANEOUS APPLICATION E011 OF 2022**

**RL KORIR, J
MARCH 12, 2024**

BETWEEN

JC APPLICANT

AND

AC RESPONDENT

RULING

1. By Notice of Motion Application dated 19th August 2021, the Applicant moved this court for orders:-
 - I. That the Judgment made by the HIV and AIDS Tribunal in HAT Cause Number 23 of 2019 dated 19th February 2021 be adopted and enforced as a Decree of this court.
 - II. Costs of this Application be provided for.
2. The Application was brought under Section 3A of the *Civil Procedure Act*, Order 51 Rule 1 of the *Civil Procedure Rules* and Section 29 of the *HIV & AIDS Prevention and Control Act*. It was anchored on the grounds on the face of the Application and on the Supporting Affidavit sworn by JCC on 19th August 2021.
3. In various averments, the Applicant stated that she filed HIV & AIDS Tribunal Cause Number 23 of 2019 on 8th September 2020 against the Respondent and the Tribunal delivered its Judgment on 19th February 2021 awarding her Kshs 350,000/= and costs of the suit. The Applicant stated that the Judgment of the Tribunal could only be executed if it was adopted as a Judgment of this court.
4. When the matter came up for directions on 19th June 2022, the court observed that the Respondent was unrepresented and to level the litigation ground, deferred the matter and issued summons for her attendance. The court further inquired of the Respondent whether she was aware of the proceedings before the Tribunal and she indicated that she was aware but failed to attend as the letters were getting



to her late. The court directed the Applicant's counsel to serve the Tribunal's Judgement and Decree upon the Respondent.

5. The Respondent appeared before this court in person on 16th October 2023. She confirmed that she was served and informed this court that she had no objection to the court adopting the Judgment of the Tribunal as its own Judgment.
6. I have considered the Notice of Motion Application dated 19th August 2021, the Further Affidavit sworn by MNM Advocate on 7th June 2023 and the Respondent's oral submissions. The only issue for my determination was whether the Decree of the HIV & AIDS Tribunal dated 19th February 2021 could be adopted as a Decree of this court.
7. Section 29 of the *HIV and AIDS Prevention and Control Act* provides that:-
 - (1) Where the Tribunal awards damages or costs in any matter before it, it shall, on application by the person in whose favour the damages or costs are awarded, issue to him a certificate stating the amount of the damages or costs.
 - (2) Every certificate issued under subsection (1) may be filed in the High Court by the person in whose favour the damages or costs have been awarded and, upon being so filed, shall be deemed to be a decree of the High Court and may be executed as such.
8. The above provision is clear that an Applicant has to extract a Decree from the HIV & AIDS Tribunal and it is that Decree that would be up for adoption by this court to facilitate execution.
9. The Applicant has attached a Decree from the HIV & AIDS Tribunal HAT Cause Number 23 of 2019 dated 19th February 2021 which indicated that the Applicant had been awarded Kshs 350,000/= as general damages and costs of Kshs 57,600/=.
10. As I had earlier stated, the Respondent did not oppose the Application to have the Decree of the Tribunal be adopted as a Decree of this court.
11. In the end, I proceed to adopt the Decree of the HIV & AIDS Tribunal HAT Cause Number 23 of 2019 dated 19th February 2021 as a Decree of this court.
12. I make no order on costs of the Application.
13. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED THIS 12TH DAY OF MARCH, 2024.

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R. LAGAT-KORIR

JUDGE

RULING DELIVERED IN THE PRESENCE OF MR. KATEE FOR THE APPLICANT AND IN THE ABSENCE OF THE RESPONDENT AND; SIELE(COURT ASSISTANT)

