



REPUBLIC OF KENYA



**KENYA LAW**  
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**Wangombe v Maina (Miscellaneous Civil Application  
10 of 2017) [2024] KEHC 5380 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5380 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NANYUKI  
MISCELLANEOUS CIVIL APPLICATION 10 OF 2017**

**AK NDUNG’U, J**

**MAY 16, 2024**

**BETWEEN**

**MAITAI WANGOMBE ..... APPLICANT**

**AND**

**NANCY NYAMBURA MAINA ..... RESPONDENT**

**RULING**

1. This ruling resolves the notice of motion herein dated 15/09/2022. It follows an earlier ruling dated 12/3/2024 requiring that evidence of resolution of H.C.C.A No. 13 of 2017 be placed before the Court. The order sought in the application is that this court do authorize the manager Housing Finance Company Limited Nyeri Branch to release all monies deposited in A/C No. xxxx together with interest accrued. The Applicant prays for costs.
2. The application is grounded on the fact that an amount of Kshs.235,000/- was deposited in the said bank pending the outcome of Nanyuki High Court Civil Appeal No. 13 of 2017. That appeal was dismissed on the 19/07/2022. It is urged that the said amount was a decretal sum payable to the Applicant herein and since the appeal was dismissed, the entire amount and the interest accrued should be released to the Applicant.
3. The application is further supported by an affidavit of the Applicant in which he deponed that on 28/04/2017, a decree was entered in CMCC No. 137 of 2015. Consequently, the Respondent filed an application to appeal out of time and on 14/12/2017, the application was allowed and she was ordered to deposit a sum of Kshs.235,000/- in an interest joint account in the names of both advocates. The said amount was deposited in Housing Finance of Kenya. The Respondent filed appeal number 13 of 2017 but on 19/07/2022, the appeal was dismissed for want of prosecution. Therefore, since there is no appeal pending, the amount deposited and the interest accrued should be released to his advocate for onward transmission to him.



4. The application is not opposed. There is evidence that the sum in question was deposited in the named bank from orders of court arising from a consent of the parties recorded on December 14, 2017. The Respondent was granted leave to file appeal out of time. The file H.C.C.A No. 13 of 2017 has been placed before the court and there is confirmation that this court, (Waweru J), dismissed the appeal for want of prosecution on 19<sup>th</sup> July 2022.
5. The sum of Shillings 235,000 was deposited to secure the decretal sum in CMCC No. 137 of 2015. The appeal having been dismissed, there is no reason whatsoever for the continued holding of the deposit in Housing Finance of Kenya.
6. The applicant is entitled to enjoy the fruits of his judgment.
7. With the result that the application is wholly successful. I allow the same and make the following orders:
  1. The manager Housing Finance Company Limited (HFC Limited) Nyeri Branch do release all monies deposited in account number xxxx together with interest to Ms Kebuka Wachira & Company Advocates forthwith.
  2. No order as to costs

**DATED SIGNED AND DELIVERED VIRTUALLY THIS 16<sup>TH</sup> DAY OF MAY, 2024**

**A.K. NDUNG’U**

**JUDGE**

