



**Jiangxi Zhongmei Engineering Construction Limited v Wafula (Miscellaneous Application 27 of 2020) [2024] KEHC 11633 (KLR) (24 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11633 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
MISCELLANEOUS APPLICATION 27 OF 2020  
REA OUGO, J  
SEPTEMBER 24, 2024**

**BETWEEN**

**JIANGXI ZHONGMEI ENGINEERING CONSTRUCTION LIMITED ..... APPLICANT**

**AND**

**ELIUD MAELO WAFULA ..... RESPONDENT**

**RULING**

1. Jiangxi Zhongmei Engineering Construction Ltd the applicant seeks in a motion dated the 5.3.2024 to have the sum of Kshs 3,604,000/- plus interest which was deposited in a fixed joint interest earning account No. 0502xxxxxx at Equity Bank released to the it. The application was opposed. The respondent filed a replying affidavit dated the 8.7.2024.
2. I have read and considered the grounds on the face of the application, the supporting affidavit plus the replying affidavit dated 8.7.2024.
3. It is not in dispute that monies were deposited in a joint account after the parties entered a consent. The money it appears was deposited in the lower court file CMCC No. 276 of 2018. The matter before me is a Miscellaneous application file in which the applicant sought Leave to Appeal out of time and and he was granted leave as was sought to file an appeal within 30 days. This is not the appeal file nor the lower court file.
4. In my view the applicant’s application misplaced. The application should have been filed in CMCC No. 276 of 2018 as correctly pointed out by Mr. Angima in the replying affidavit. The application is misplaced. I therefore dismiss the application dated 5.3.2024 with no orders as to costs.

**DATED, SIGNED AND DELIVERED AT BUNGOMA THIS 24<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

**R.E. OUGO**



## **JUDGE**

In the presence of:

Mr. Samba - For the Applicant

Mr. Angima -For the Respondent

Wilkister C/A

