



East & Central Africa Enterprises Limited & another v Ndirangu & 2 others (Civil Appeal 475 of 2016) [2023] KEHC 886 (KLR) (Civ) (16 February 2023) (Ruling)

Neutral citation: [2023] KEHC 886 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL 475 OF 2016

JN MULWA, J

FEBRUARY 16, 2023

BETWEEN

**EAST & CENTRAL AFRICA ENTERPRISES LIMITED 1ST APPELLANT
SAMUEL MUHIUNU KIMANI 2ND APPELLANT**

AND

**DORCAS WAIRIMU NDIRANGU 1ST RESPONDENT
EAST AFRICA STAR BAKERIES 2ND RESPONDENT
WILLIAM OWITI 3RD RESPONDENT**

RULING

1. Before the court is an application dated July 13, 2021 brought by the Appellants under Order 51 Rule 1 of the *Civil Procedure Rules* and Section 34 of *Civil Procedure Act*.

The Appellants seek orders: -

- a. That the Honourable court be pleased to order the release of Kshs 162,322/- deposited in court by the 1st Appellant to their Advocates M/s Michael Daud & Associates Advocates.
 - b. That costs of the application be provided.
2. It is supported by an affidavit sworn by one Abdirashid Gedi Samatar, the Managing Director of the 1st Appellant on the July 13, 2021, and grounds stated on its face.

Though served with the application and hearing notice, the Respondents have opted not to file any responses.



3. I have considered the application and the affidavit in support.

The said sum of Kshs 162,322/- was deposited in court as security pending hearing and determination of the appeal by a court order dated July 15, 2016 (Hon Justice A K Ndungu).

The appeal was eventually heard and determined by a judgment dated February 27, 2020 allowing the 1st Appellant's appeal.

Following the determination of the appeal, it followed that the deposit ought to be released back to the depositor, the 1st Appellant.

4. That did not, and has not happened as the 1st Appellant's Advocates depone to have misplaced the original deposit receipt as they moved offices; and upon request to the Deputy Registrar, to present a copy of the receipt, were advised to apply for an order for release of the money hence this application before me. The application is unopposed.

5. There being no opposition to the application, and the court being satisfied that indeed the said money was deposited in court by the 1st Appellant, I find and deem it proper to allow the application in terms of prayer number (a).

6. Consequently, an order is hereby issued that the sum of Kshs 162,322/- deposited in court by the 1st Appellant be released to the Appellants' Advocates M/s Michael, Daud & Associates Advocates for onward transmission to the 1st Appellant.

No orders as to costs.

Orders accordingly.

DELIVERED DATED AND SIGNED AT NAIROBI THIS 16TH DAY OF FEBRUARY, 2022.

J. N. MULWA

JUDGE

