



**Khasoa t/a Khasoa & Company/Advocates v Partner (Miscellaneous Application 120 of 2019) [2023] KEHC 18524 (KLR) (19 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 18524 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
MISCELLANEOUS APPLICATION 120 OF 2019**

**REA OUGO, J**

**APRIL 19, 2023**

**BETWEEN**

**CAROLYNE KHASOA T/A KHASOA & COMPANY/  
ADVOCATES ..... APPLICANT**

**AND**

**PATRICK, TEDDY PARTNER ..... RESPONDENT**

**RULING**

1. Before me is an application to review and set aside the orders dated December 22, 2022 ,the Ruling dated November 9, 2021 and the consequent decree dated January 18, 2022 directing the Respondent to release the sum of Kshs 1,250,000 to the applicant/respondent.
2. The application is supported by the affidavit of the applicant/respondent Mr. Teddy Okello. The applicant’s main reason for seeking a review of the orders is that when the court made its ruling of December 22, 2019 the court was made to believe that the counsel was properly on record. That the Respondent didn’t receive the money its being ordered to release and that a court can’t issue orders in vain. That the consent was neither properly on record nor adopted as a court order.
3. The application was opposed by the respondent vide a replying affidavit filed in court on the 16.2.2023. The Respondent raised the following issues; the application for review has been brought after 2 years and 3 months. The delay is unreasonable. That when the Respondent sought to tax her bill the applicant relied on the said consent which they are saying is illegal. That it is now 5 years down the line since the consent was entered into. That there is no evidence from the Respondent that the proceeds of the estate were not released to him.
4. The application was canvassed by way of oral submissions. I have considered the application plus the oral submissions. I note that the application has been filed about 16 months after the Ruling was delivered on the November 9, 2021. The orders of December 20, 2019 were only interim orders. The



issue which was the subject of the ruling dated November 9, 2021 was that the applicants have in the possession of the sum of 1,250,000/- There is an issue of a consent that was filed in Succession Cause No. 53 of 2014. The Deputy Registrar's ruling indicates the consent wasn't filed as a court order. This issue needs to be addressed and also the issue whether the applicant has the money in their possession. In my view, there is sufficient cause to review the orders sought so that the issues raised by the Respondent are determined. The notice to show order is therefore stayed. The applicant has persuaded the court to stay the order requiring them to release the money to the respondent pending a confirmation that the applicant's have the money. Costs shall be in the cause.

**DATED, SIGNED AND DELIVERED AT BUNGOMA THIS 19<sup>TH</sup> DAY OF APRIL, 2023**

**R.E. OUGO**

**JUDGE**

**In the presence of:**

Miss Shibanda for the Respondent

Applicant - Absent

Wilkister - C/A

