



Kkenya Electricity Transmission Company Limited v Marula Estates Limited (Environment & Land Case 310 of 2018) [2025] KEELC 3676 (KLR) (9 May 2025) (Ruling)

Neutral citation: [2025] KEELC 3676 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 310 OF 2018**

A OMBWAYO, J

MAY 9, 2025

BETWEEN

KKENYA ELECTRICITY TRANSMISSION COMPANY LIMITED APPLICANT

AND

MARULA ESTATES LIMITED DEFENDANT

RULING

1. This matter should be brought to a close to enable the court undertake other judicial duties and court order should be complied with. Many applications have been filed in this court on issues that parties can agree. Such is the issue of release of the funds held in the joint account of the advocates. The application dated 16/4/2025 is not necessary as parties can agree, but since it has been filed the court cannot ignore the same. The applicant seeks orders that this Honorable Court be pleased to grant an Order directing/ compelling Stanbic Bank (K) Limited Chiromo Branch to release the sum of Kenya Shillings Twelve Million Four Hundred and Thirty-Seven Thousand Two Hundred and Forty being taxed costs from the Escrow Account Number XXXXXXXXXXXXXXXX to Account Number XXXXXXXXXXXXXXXX held by the firm of Messrs. z Ochieng Opiyo & Co. Advocates Stanbic Bank (K) Limited - Chiromo Branch.
2. The application is opposed by the defendants on grounds that the court lands jurisdiction to determine the issue as it had made its determination. This Court lacks jurisdiction to hear and determine the application as the Court has already made a finding on the question of release of the funds in the joint interest earning account vide its ruling of 1 8th November 2024 and 4th April 2025 and is thus functus officio. The Application is premature and devoid of merit as there is no decree in support of the Certificate of Costs to warrant execution through exercise of this Honorable Court's power pursuant to Section 38 of the *Civil Procedure Act*, Order 21 Rule 9 and Order 22 of the *Civil Procedure Rules*. No application has been made by the Plaintiff for the adoption of the Certificate of Costs dated 25th February 2025 as a judgment of the Court and subsequent extraction of a decree to warrant execution. No orders as to costs.



3. I have considered the application rival submissions and do find that this not an issue to belabor the court, both counsel have used a lot of ink and paper on issue that they can easily agree on. In the interest of justice, I do grant an Order directing/compelling Stanbic Bank (K) Limited Chiromo Branch to release the sum of Kenya Shillings Twelve Million Four Hundred and Thirty-Seven Thousand Two Hundred and Forty being taxed costs from the Escrow Account Number XXXXXXXXXXXXX to Account Number XXXXXXXXXXXXX held by the firm of Messrs. z Ochieng Opiyo & Co. Advocates Stanbic Bank (K) Limited - Chiromo Branch. No order as to costs.

SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO

THE JUDICIARY OF KENYA.

NAKURU ENVIRONMENT AND LAND COURT

ENVIRONMENT AND LAND COURT

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