

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISCELLANEOUS CIVIL APPLICATION NO. 141 OF 2013

FLORENCE NYAGUTHII MURAGE.....APPLICANT

VERSUS

RUMBA KINUTHIA & CO ADVOCATES.....RESPONDENT

R U L I N G

On 26th March, 2019 the advocates appearing for the parties herein informed the court that the only issue remaining is the interest payable following the ruling of this court made on 14th December, 2017. Both parties had filed submissions relating to the same.

On 14th December, 2017 aforesaid, this court made a ruling compelling the respondent to pay the applicant a sum of Kshs.1,588,476/- plus interest at court rates from the date it was due and payable. This followed an application that was lodged by the applicant to pay the above sum which had not been paid by the respondent following compensation paid by the state.

The court found as a fact that there was no reason to withhold the said sum, the applicant having established that the respondent should pay the same.

The application leading to the present ruling was filed on 19th February 2013. The applicant had secured a judgment delivered on 21st July, 2010 by Okwengu J, (as she then was). The amount awarded to the applicant in the ruling dated 14th December 2017 was a liquidated sum. The court was specific that the interest would be payable at court rates from the date it was due and payable.

The respondent knew or ought to have known that any withholding of the applicant's dues would attract some penalty. Where the subject matter is money the penalty is in the form of interest.

There was no reason why the respondent did not pay the applicant all the money due and payable at the time he made the first payment. He has attracted this penalty to himself.

I find that the interest due and payable to the applicant should run from the date the application was filed that is, 19th February, 2013. That shall meet the interest of justice in the circumstances of this case. No other costs are payable at this stage.

Dated, signed and delivered at Nairobi this 4th day of June, 2019.

A. MBOGHOLI MSAGHA

JUDGE