



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL DIVISION**

**HIGH COURT CIVIL MISC. APPL. NO. 519 OF 2016**

**HALAKE RAMBO MUTHOGA & MUIRURI ADVOCATE..DECREE HOLDER/APPLICANT**

**VERSUS**

**GREENSTAR SYSTEMS LIMITED.....JUDGMENT DEBTOR/RESPONDENT**

**AND**

**KENYATTA INTERNATIONAL CONVENTION CENTRE.....1<sup>ST</sup> GARNISHEE**

**COOPERATIVE BANK OF KENYA LTD.....2<sup>ND</sup> GARNISHEE**

**EQUITY BANK OF KENYA LTD.....3<sup>rd</sup> GARNISHEE**

**RULING**

1. The application dated 8<sup>th</sup> February, 2018 seeks orders that:

**“1. Spent.**

**2. That the honourable court be pleased to grant leave to the Applicant to proceed with execution of the decree by attachment of the Judgment Debtor/Respondent’s funds due from the 1<sup>st</sup> Garnishee.**

**3. That this honourable court be pleased to issue a Garnishee Nisi Order herein and that all sums due and owing from the 1<sup>st</sup> Garnishee to the Judgment Debtor/Respondent as shall be sufficient to satisfy the Applicant’s decretal sum of Kshs.1,965,983/= which sum continues to accrue interest at court rates from 13<sup>th</sup> July, 2017 be garnished.**

**4. That the 1<sup>st</sup> Garnishee do appear before this honourable court on an appointed date and time to show cause why they should not pay to the Applicant/Decree Holder the aforementioned decretal sum.**

**5. That the said sum of money should be remitted into the Applicant/Judgment Holder’s bank account particulars whereof are given hereunder.**

**Account Name: Halake Rambo Muthoga & Muiruri Advocates**

**Account No: 0170264452389**

**Swift Code: EQBLKENA**

**Bank: Equity Bank**

**Bank Code: 68**

**Branch Code: 017**

**6. That costs of this application be provided for.**

2. It is stated in the grounds and the affidavit in support of the application that the Respondent who was represented by the Applicant in Arbitration proceedings has declined to pay the Applicant's legal fees. That the costs have been taxed and a certificate of taxation issued for the sum of Ksh.1,965,983/= against the Respondent. That the Applicant then proceeded to institute garnishee proceedings and is aware that the 1<sup>st</sup> garnishee is indebted to the Respondent in the sum of ksh.47,419.029.86 pursuant to the award in the Arbitration proceedings between the Respondent and the 1<sup>st</sup> Garnishee. That the Arbitration award made on 17<sup>th</sup> March, 2017 was recognized by the court as binding and leave was granted for the enforcement of the same.

3. The application is opposed. It is stated in the replying affidavit that the Respondent has appealed against the judgment of the High Court that dismissed its application to set aside the Arbitration award in HC. Misc. Appl. 278 of 2017 and that temporary orders of stay of execution are in force therein.

4. The Applicant filed a further affidavit in response to the contents of the replying affidavit. It is averred that with the dismissal of the Respondent's application in HC Misc. Appl. 278/2017, the Applicant was at liberty to move the court.

5. On 3<sup>rd</sup> October, 2018 when the application proceeded to hearing the Respondent was not present though served. I have considered the application, the response to the same and the submissions made by counsel for the Applicant.

6. It is not in dispute that the Applicant represented the Respondent in the arbitration proceedings. It is also not in dispute that the Bill of costs has already been taxed. There is no evidence to contest that the 1<sup>st</sup> Garnishee is indebted to the Respondent. Consequently, I allow the application as prayed.

**Dated, signed and delivered in Nairobi this 4<sup>th</sup> day of Dec., 2018**

**B. THURANIRA JADEN**

**JUDGE**