



**Bacchus Grocers Limited v Karisa (Appeal E112 of 2024)  
[2025] KEELRC 2569 (KLR) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2569 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
APPEAL E112 OF 2024  
M MBARŪ, J  
SEPTEMBER 25, 2025**

**BETWEEN**

**BACCHUS GROCERS LIMITED ..... APPELLANT**

**AND**

**RAMA NGUMBAO KARISA ..... RESPONDENT**

**RULING**

1. The appellant filed an application dated 7 May 2025, seeking orders:
  1. Spent.
  2. Spent.
  3. The court be pleased to grant leave to the appellant to settle the decretal sum by way of monthly instalments as stipulated hereunder as per the corresponding cheques:  
Schedule  
7 May 2025, Ksh.85, 385  
7 June 2025, Ksh. 62,500  
7 July 2025, Ksh. 62,500  
7 August 2025, Ksh. 62,500  
7 September 2025, Ksh. 62,500
1. The application is supported by the affidavit of Francis Njuguna Muhato, the director, who avers that in a decree dated 28 March 2025, the court directed the appellant to pay Ksh. 505,277 less statutory deduction. The taxation was done, leaving the sum of KSh. 335,385.34.



2. Despite the immense hardship faced by the appellant, there is a significant effort to settle the decretal sum by monthly instalments of Ksh.25,000 and has made an offer to the respondent to pay the remaining balances. Settlement cheques have been issued in advance to the respondent, and the appellant hopes to settle the entire amount by 7 September 2025.
3. The appellant is seeking a stay of execution of the judgment and decree to allow for payment of the due award in instalments.

PARA4.

The respondent filed his Replying Affidavit of Ernest Mokaya, Advocate, and avers that the appellant filed the instant application but failed to effect service. It was not until 13 June 2025 that the respondent accessed the CTS and found the application. The appellant engaged the respondent to settle the decretal sum by instalments within 4 months from May 2025.

5. However, the respondent was exempted from PAYE because he was earning below Ksh.20,000. The appellant, in making the tabulations, has applied statutory dues that do not pertain to the respondent, including NSSF, NHIF, SHIF and Housing Levy, which did not apply to the respondent at the time of his employment. Despite communication to the appellant regarding the position and judgment here, there is an insistence on making unnecessary deductions to undermine the court's judgment and decree.
6. The appellant has demonstrated an inability to pay, and the offer to pay in instalments has since been withdrawn. The appellant should make an initial instalment of Ksh. 100,000 before being allowed to proceed with further payments.
7. The cheques forwarded have instead been returned as bad cheques. Some contained errors were overwritten, and there is no need to keep them. There is no payment or good faith in the offer by the appellant.
8. Both parties attended court and made oral submissions.
9. The application by the applicant is two-pronged. On the one hand, the appellant is seeking to pay the decretal sum in instalments, and on the other hand, is seeking a stay of execution to enable payment.
10. The respondent has challenged the application of statutory dues on the decretal sum.
11. First, the decretal sum is subject to statutory deduction under section 49(2) of the *Employment Act*. The award of the court and judgment delivered on 30 January 2025 are subject to the mandatory provisions of section 49(2) of the Act. The provision requires that;
  - (2) Any payments made by the employer under this section shall be subject to statutory deductions.
12. The awards and payments were issued on 30 January 2025. The Act requires that before making any payment(s) to the employee, the same be subject to statutory deductions.
13. The employment terminated on 5 February 2022. The termination of employment is established as justified. On the court awards, statutory deductions are lawful. In return, the appellant should issue the respondent with the P9 Form for his KRA returns, including details of the statutory deductions remitted. This is a legitimate expectation on the part of the respondent.
14. On the due payments of the decretal sum, the appellant has since reneged on the offer to pay in instalments. The proposal to pay such instalments was to forestall execution, and once this was achieved, there appears to have been no good faith to meet the ends of the bargain.



15. The offer to pay the decretal sum in instalments should be based on principles and demonstrate good faith by arranging fair payment of the proportion of the debt, thereby persuading the court to permit payment by instalments. The judgment creditor might genuinely be in a difficult position to pay the decretal amount in full at once. However, he must show sincerity in settling the amount. In such cases, he should demonstrate his bona fides by proposing fair payment arrangements to liquidate the debt, as held in *Kamanga v Venus Inn & another* [2024] KEELRC 404 (KLR). This good faith is absent in this case.
16. The decretal sum is due in full, less statutory deductions. The application dated 5 May 2025, is addressed in this regard. Costs are awarded to the respondent.

**DELIVERED IN OPEN COURT AT MOMBASA THIS 25TH DAY OF SEPTEMBER 2025.**

**M. MBARŪ**

**JUDGE**

In the presence of:

Court Assistant: Japhet

..... and .....

