



**Damu v Hanna Roses Limited (Cause E458 of 2023)
[2025] KEELRC 2532 (KLR) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2532 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E458 OF 2023
L NDOLO, J
SEPTEMBER 25, 2025**

BETWEEN

KADLAG PARAJI DAMU CLAIMANT

AND

HANNA ROSES LIMITED RESPONDENT

RULING

1. By a judgment delivered on 30th January 2025, I awarded the Claimant the sum of Kshs. 3,126,352 being withheld salary for the months of October and November 2022, plus costs and interest. Costs were taxed at Kshs. 252,202.72.
2. Thereafter, the Respondent moved the Court by way of Chamber Summons dated 20th May 2025, seeking the following orders:
 - a. Stay of execution proceedings brought by the Claimant against the Respondent;
 - b. An order setting aside and/or varying the ruling of the Taxing Officer delivered on 13th May 2025 taxing the Party and Party Bill of Costs dated 31st January 2025;
 - c. An order remitting the Bill of Costs for re-taxation by a different Taxing Officer.
3. The matter was placed before my brother Manani J on 12th June 2025 and he granted interim orders staying execution proceedings. However, in an unfortunate twist, Warrants of Attachment were erroneously issued on 23rd June 2025, forcing the Respondent to rush back to Court in another application dated 26th June 2025.
4. The matter was again placed before Manani J on 2nd July 2025, who issued further orders stopping the execution. This ruling will therefore determine both the application dated 20th May 2025 and the subsequent one dated 26th June 2025.



5. Both applications are supported by an affidavit sworn by the Respondent's Chief Accountant, Maxwell Sunguna and the Respondent bases its plea on the grounds that:
 - a. The Taxing Officer applied the wrong principles of taxation and arrived at a manifestly excessive and unjustified award;
 - b. The Taxing Officer failed to consider that the Respondent had already settled part of the amount claimed, and therefore erred in taxing the full amount without making appropriate deductions or adjustments;
 - c. The Taxing Officer erred in law and fact by failing to provide reasons for the taxation as required under Paragraph 11(2) of the *Advocates (Remuneration) Order*;
 - d. The Taxing Officer's decision lacks transparency and is incapable of being properly reviewed or applied due to the absence of reasons;
 - e. Unless the orders sought are granted, the Respondent shall suffer irreparable loss and ignominy;
 - f. No prejudice will be suffered by either party and it is in the interest of justice that the orders sought are granted;
 - g. The Court has the constitutional and statutory mandate to consider the Respondent's plea before it and grant the orders sought, in the interest of justice and fairness to the parties.
6. The Claimant filed a replying affidavit sworn on 18th July 2025. He depones that two days prior to delivery of judgment on 30th January 2025, the Respondent deposited a sum of Kshs. 1,600,000 in his bank account, without notice to him or his Advocates. The Claimant terms the Respondent's action as a misguided effort to distort the claim.
7. The Claimant states that the Respondent's plea to mark the matter as settled, on account of the above payment, was rejected by the Court.
8. The Claimant adds that a ruling on the Party and Party Bill of Costs filed by his Advocates was delivered on 13th May 2025, upon which the Respondent was granted 30 days' stay of execution.
9. A Certificate of Costs was issued on 22nd May 2025 and on 19th June 2025, the Claimant's Advocates applied for Warrants of Attachment, which discounted the amount of Kshs. 1,600,000 paid to the Claimant.
10. The appointed Auctioneers proclaimed the Respondent's goods on 24th June 2025 and on 27th June 2025, the Respondent made a payment of Kshs. 772,030.
11. When the parties appeared before me on 22nd July 2025, the decretal sum had been substantially settled, leaving the only outstanding issue being deductions made from the award. In this regard, the Claimant takes issue with the deductions made as PAYE, SHIF and Housing Levy.
12. This is a straightforward issue; with regard to PAYE the Respondent is directed to avail documentary proof of the actual tax paid to the Kenya Revenue Authority on behalf of the Claimant. On SHIF and Housing Levy, I agree with the Claimant that at the time the withheld salary was earned, these taxes were not in existence and cannot therefore be backdated.
13. As the parties have substantially agreed on the issues giving rise to the twin applications, I direct that each party will bear their own costs.



14. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 25TH DAY OF SEPTEMBER 2025

LINNET NDOLO

JUDGE

Appearance:

Mr. Aziz for the Claimant

Mr. Marete for the Respondent

