



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Kenya Game Hunting & Safaris Workers Union (Now Kenya Game Conservancy
Tour & Safari Workers Union) v Payless Car Hire Tour and Rent a Car (Cause
459 of 2012) [2025] KEELRC 2560 (KLR) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2560 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 459 OF 2012
L NDOLO, J
SEPTEMBER 25, 2025

BETWEEN

**KENYA GAME HUNTING & SAFARIS WORKERS UNION (NOW KENYA
GAME CONSERVANCY TOUR & SAFARI WORKERS UNION) CLAIMANT**

AND

PAYLESS CAR HIRE TOUR AND RENT A CAR RESPONDENT

RULING

1. This ruling determines the Claimant's application dated 22nd November 2023, seeking the following orders:
 - a. An order summoning the Respondent's Director, Jai Radia to appear in court to show cause why he should not be punished for failure to satisfy the judgment of the Court delivered on 2nd September 2016;
 - b. In the event of failure to honour the summons, an order directing the OCS Kamukunji Police Station to arrest and produce the said Jai Radia in court.
2. The application is supported by an affidavit sworn by the Claimant's General Secretary, Josephat M. Ndolo and is based on the following grounds:
 - a. The parties have a valid Recognition Agreement pursuant to which Collective Bargaining Agreements, governing unionisable employees' terms of service, have been negotiated and registered;
 - b. The Respondent wrongfully dismissed James Gitau and unlawfully and unfairly terminated the services of Alex Katiku and Julius Okelo on account of redundancy;



- c. The said wrongful dismissal and unfair redundancies were the subject of trial in this Court, leading to a judgment delivered on 2nd September 2016;
 - d. A decree of the Court was issued, upon which the Claimant instructed M/S Charles Mwangi t/a Chaka & Co. Auctioneers to execute the judgment;
 - e. The Respondent was found to have no moveable property to its name, for attachment and sale;
 - f. Following the judgment, the Respondent's Director, Jai Radia changed the business to motor vehicle lamps and spare parts, which he continues to run;
 - g. The Grievants have information that a building known as Merchandise Center, along Kirinyaga Road, in which Jai Radia operates his motor vehicle lamps and spare parts shop, belongs to him and his family;
 - h. All efforts to persuade Jai Radia to honour the judgment have not borne fruit;
 - i. The Grievants believe that the Respondent has not been liquidated or declared insolvent and its Director, Jai Radia is capable of settling the judgment sum together with interest;
 - j. The said Jai Radia intends to move out of the country and settle elsewhere before settling the judgment sum;
 - k. Unless the Court intervenes, the Respondent and its Director intend to escape with all the benefits in the judgment;
 - l. It is therefore necessary that the orders sought be granted.
3. The Respondent filed Grounds of Opposition stating that:
- a. No judgment or notice of judgment was served on the Respondent;
 - b. The Claimant has not provided any evidence to show that the Respondent has no assets to its name;
 - c. The Claimant has neither shown cause as to why a warrant of arrest should issue against Jai Radia nor why he should be committed to civil jail for debts owed by the Company;
 - d. The Notice of Motion application dated 22nd November 2023 is only meant to intimidate Jai Radia, who was not a party in the proceedings;
 - e. The Claimant has referred to a building known as Merchandise Center on Kirinyaga Road, and a business for motor vehicle lamps and spare parts, which do not belong to Jai Radia, his family or the Respondent. Furthermore, no evidence of ownership has been provided;
 - f. Jai Radia is only an employee in an auto parts business, that does not belong to him or his family;
 - g. The application dated 22nd November 2023 is misguided, bad in law and an abuse of the court process;
 - h. The Court ought to dismiss the application as it has no merit and is a waste of precious judicial time.
4. Jai Radia filed a replying affidavit sworn on 20th March 2024, deponing that he is an employee of the Respondent.



5. Radia denies being a Director of the Respondent but confirms that the Respondent has no assets in its name for attachment and sale.
6. According to Radia, the building known as Merchandise Center on Kirinyaga Road is not owned by him or his family. He adds that the premises are rented to the Respondent.
7. In his affidavit in response to the application, Jai Radia denies being a Director of the Respondent. In his averments however, Radia discloses crucial details regarding the Respondent, including lack of assets in its name and tenancy at Merchandise Center.
8. Order 22 Rule 35 of the Civil Procedure Rules provides for oral examination of an officer of a body corporate or any other person with information about a defaulting judgment debtor. This provision states as follows:
 35. Where a decree is for the payment of money, the decree-holder may apply to the court for an order that-
 - a. the judgment debtor;
 - b. in the case of a corporation, any officer thereof; or
 - c. any other person,
be orally examined as to whether any or what debts are owing to the judgment-debtor, and whether the judgment-debtor has any and what property or means of satisfying the decree, and the court may make an order for the attendance and examination of such judgment-debtor, or officer, or other person, and for the production of any books of documents.
9. In *Ultimate Laboratories v Tasha Bio Service Limited Nairobi HCCC No. 1287 of 2000* (unreported) Ringera J (as he then was) held that any person who is in a position to provide information in the nature of discovery, may be summoned for examination.
10. In his affidavit in response to the Claimant's application, Jai Radia discloses that he is in a position to provide information in the nature of discovery as to the Respondent's capability to settle the debt owed to the Grievants.
11. I must at this stage clarify that what is before the Court is not a plea for lifting of the corporate veil; but rather a process towards establishment of the reason why the Respondent has not satisfied the decree of this Court. This can only be achieved through examination of the known officer of the Respondent.
12. I therefore direct that Jai Radia, shall appear before the Court in person on 15th October 2025, for the purpose of examination on oath as to the Respondent's means and assets.
13. I further direct that the said Jai Radia shall file and serve the Claimant with the Respondent's books of account and any other relevant document(s) not later than fourteen (14) days before the date fixed for his examination.
14. The costs of this application will be in the cause.

DELIVERED VIRTUALLY AT NAIROBI THIS 25TH DAY OF SEPTEMBER 2025

LINNET NDOLO

JUDGE

Appearance:



Mr. Ndolo (Union Representative) for the Claimant

Ms. Gitonga for the Respondent

