



**Mwangemi v Mawingo Construction 2010 Limited (Cause
235 of 2015) [2024] KEELRC 1894 (KLR) (18 July 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1894 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 235 OF 2015**

**AK NZEI, J
JULY 18, 2024**

BETWEEN

FERDINARD LENJO MWANGEMI CLAIMANT

AND

MAWINGO CONSTRUCTION 2010 LIMITED RESPONDENT

RULING

1. Judgment in this matter is shown to have been delivered on 7th July 2021 (Rika J.). The Claimant is shown to have been awarded kshs. 426,056 and costs of the suit.
2. On 1/11/2022, the Respondent filed a Notice of Motion dated 10/11/2021 seeking, inter-alia, setting aside of this Court's aforesaid judgment . On 14/11/2022, I ordered the Respondent to deposit the entire decretal sum in Court within fourteen (14) days of the order as a condition to interim stay of execution pending hearing and determination of its aforesaid application. The Court's record herein shows that a sum of kshs. 426,056 was deposited in this Court on 6/12/2022.
3. The Respondent's said Notice of Motion dated 10/11/2021, which the Claimant had opposed, was eventually considered by this Court and was dismissed vide this Court's Ruling delivered on 25/5/2023.
4. Subsequently, the Claimant filed a Notice of Motion dated 13/5/2024 seeking the following orders:-
 - a. That the Court be pleased to order that the amount of kshs. 426,056 deposited in Court by the Respondent/Judgment Debtor on 6/12/2022 be unconditionally released to the Firm of IRB Mbuya & Company Advocates on behalf of the Claimant/Judgment Creditor.
 - b. That the Respondent/Judgment Debtor do bear the costs of the application.
5. The said application, which is the application before me, is based on the supporting affidavit of Clara Wanyama Advocate sworn on 13/5/2024. The application, though shown to have been duly served on



the Respondent's Advocates and an affidavit of service filed, is not opposed by the Respondent as no response to the application is shown to have been filed.

6. The Claimant's said Notice of Motion dated 13/5/2024 is hereby allowed in the following terms:-
 - a. the sum of kshs, 426,056 deposited in this Court by the Respondent/Judgment Debtor on 6/12/2022 shall be released unconditionally to the Firm of IRB Mbuya & Company Advocates on behalf of the Claimant/Judgment Creditor.
 - b. each party shall bear its own costs of the application.
7. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 18TH July 2024

AGNES KITIKU NZEI

JUDGE

ORDER

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

.....Claimant

.....Respondent

