



**Mwavi alias Silas Mbwabi (Suing as the Legal Representative of Paul Mbwabi (Deceased)
v Luguayani (Cause 63 of 2016) [2025] KEELRC 2822 (KLR) (22 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2822 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
CAUSE 63 OF 2016
NZIOKI WA MAKAU, J
OCTOBER 22, 2025**

BETWEEN

**SILAS ASHIUNDU MWAVI ALIAS SILAS MBWABI CLAIMANT
SUIING AS THE LEGAL REPRESENTATIVE OF PAUL MBWABI (DECEASED**

AND

SAMUEL MUHATI LUGUYANI RESPONDENT

RULING

1. The motion before me is the one dated 29th September 2025. The gravamen of the motion is that the Claimant had debited the joint account to the tune of Kshs. 1,107,522.90 without a lawful order of the Court. The Applicant thus sought that the amount improperly debited be refunded and deposited in Court.
2. The Counsel for the Claimant Mr. Balusi filed an affidavit in which he asserted the debit was sanctioned by the Court. He cited the decision of Justice Nduma Nderi which led to the decree of the Court ordering payment of a sum of Kshs. 1,623,592.25 together with costs of the suit. The execution commenced with garnishee proceedings being taken out against the accounts of the Respondent and the orders that followed on a stay application were that half the decretal sum be deposited in an interest bearing account in the joint names of the advocates.
3. There was no order to debit the joint account. Whereas there is obfuscation of issues by the Claimant, there was no direct order to debit the joint account. If this was the case, the Respondent's Counsel would have been aware and would have been involved in the process to ensure the compliance of the order. It is apparent there was mischief in the manner the amount was debited after sitting in the account since 2021. The Court notes there was a related matter in the Court of Appeal which is Kisumu Civil Appeal No. 230 of 2022. As the decretal sum relates to an appeal that is live before the Court of Appeal, the order that commends itself for me to make is an order directing the Counsel for the Claimant herein Mr. Abraham Balusi Manyani to deposit the sum of Kshs. 1,107,522.90 into



Court within 7 days of today failing which he will be cited for contempt. The deposit certificate be
availed to Court on Thursday 30th October 2025 at 9.00am.

orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 22ND DAY OF OCTOBER 2025

NZIOKI WA MAKAU, MCIARB.

JUDGE

