



REPUBLIC OF KENYA



**KENYA LAW**  
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**Maina v Kiptum (Civil Appeal E114 of 2023)  
[2025] KEHC 13968 (KLR) (3 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13968 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL E114 OF 2023  
DO CHEPKWONY, J  
OCTOBER 3, 2025**

**BETWEEN**

**JOHN MAINA ..... PLAINTIFF**

**AND**

**ELIAS KIPTUM ..... DEFENDANT**

*(Being an Appeal against a Decree emanating from the Judgment of Hon. C. N. Mugo,  
Principal Magistrate delivered on 28th March, 2023 in Limuru MCCC No.174 of 2017)*

**RULING**

1. This is a ruling in respect of a Notice of Motion application dated 2<sup>nd</sup> September, 2025 in which the Applicant, John Maina is seeking the following orders:-
  - a. That the Honourable Court do grant leave to substitute P. Kiiru Kamau & Co Advocates with Peter & Yvonne Advocates LLP as the duly entitled law firm for purposes of receiving and effecting the release order herein.
  - b. That the Honourable Court do direct that the sum of Kenya Shillings One Hundred Seventy Two Thousand and Sixty (Kshs. 172,060/= being the decretal amount deposited in court for purposes of an appeal and ordered to be released to P. Kiiru Kamau & Co Advocates be released instead to Peter & Yvonne Advocates LLP. Being the successor firm.
  - c. That the costs of this application be in the cause.
2. The Application is based on the grounds set out on its face and in the Supporting Affidavit of Yvonne Atieno Omondi sworn on the even date. The Applicant is seeking an order for the release of the decretal sum of Kshs. 172,060/= deposited in court as security for the due performance of the appeal to the Firm of P. Kiiru Kamau & Company Advocates since the appeal had since been heard and determined. That a release order had been granted to the said Firm of P. Kiiru Kamu & Company Advocates, which



Firm deposited the money in the court but there is no longer an operational bank account under its name, rendering it impossible for it to effect the said release order. This Firm has been succeeded by the Firm of Peter & Yvonne Advocates LLP, as evidenced by the Notice of Change of Advocates and a consent annexed to the affidavit.

3. The Application was served upon the Respondent and an Affidavit of Service sworn by Kavisu Amos Mutambu on 10<sup>th</sup> September, 2025 filed in court to confirm this. However, there has been no response filed on the application.

### **Analysis and Determination**

4. This Court has considered the prayers sought for in the Notice of Motion application alongside the Supporting Affidavit and annexures attached thereon and finds that indeed the appeal was already determined through the Judgment delivered on 19<sup>th</sup> September, 2024 by Honourable Justice Andayi, whereby the appeal was dismissed, hence the monies deposited as security for the due performance thereof ought to be released to the Respondent. A perusal of the court records confirms the Judgment delivered by Honourable Justice F. Andayi on 19<sup>th</sup> September, 2024, the order for the release of the security to the advocates on record then being P. Kiiru Kamau & Company Advocates and a consent dated 21<sup>st</sup> July, 2025 by the parties and or advocates herein showing the Firm of Peter & Yvonne Advocates LLP as coming on record to act for the Respondent/Defendant, Elias Kiptum in the place of the Firm of P. Kiiru Kamau & Company, Advocate, who had conduct of the matter.
5. The Appellant/Respondent has not filed a response and thus the application is unchallenged in terms of the prayers sought and evidence in support thereof.
6. In view of the foregoing, the Court finds that the application has merit and the same is allowed in the following terms:-
  - a. That the Consent dated 21<sup>st</sup> July, 2025 between the parties/Advocates herein be adopted as an order of this Court in the terms presented.
  - b. That leave be and is hereby granted to substitute the Firm of P. Kiiru Kamau & Company Advocates with the Firm of Peter & Yvonne Advocates, LLP as the duly entitled law firm acting for the Respondent/Applicant for purposes of receiving and effecting the release order issued herein.
  - c. That an order be and is hereby issued that the sum of Kenya Shillings One Hundred Seventy Two Thousand and Sixty (Kshs. 172,060/= being the decretal amount deposited in court for purposes of securing the appeal herein and ordered to be released to P. Kiiru Kamau & Co. Advocates be released instead to the Firm of Peter & Yvonne Advocates, LLP.
  - d. That the costs of this application be in the cause.

It is so ordered.

**RULING DATED AND SIGNED AT KIAMBU THIS 3<sup>RD</sup> DAY OF OCTOBER, 2025. (UPLOADED VIA ELECTRONIC MAIL).**

**D. O. CHEPKWONY**

**JUDGE**

