

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

MISC CIVIL APPLICATION NO. E007 OF 2022

OUMA MAURICE OTIENO T/A

O.M OTIENO & CO. ADVOCATES

APPLICANT

VERSUS

AFRICA MERCHANT ASSURANCE

COMPANY LIMITED

RESPONDENT

AND

SAFARICOM PLC **GARNISHEE**

RULING

1. The Applicant filed a Chamber Summons Application dated 9th September 2025 which sought the following orders: -

I. Spent.

II. THAT at the inter parties and/or further hearing of this Application, the *Garnishee nisi* be made absolute and the monies attached be released to the Decree Holder/Advocate/Applicant, O.M Otieno & Company Advocates to satisfy the decretal sum outstanding at the time of determination of these proceedings.

III. THAT costs of this Application be provided for.

2. The Application was brought under the provisions of **Order 23 Rule 1(1) of the Civil Procedure Rules and sections 1A, 1B and 3A of the Civil Procedure Act** and it was based on the grounds on the face of the Application and further by the Supporting Affidavit sworn by Ouma Maurice Otieno Advocate on 9th September 2025.

3. In the lead file being **Misc. Civil Application Number E004 of 2022, Ouma Maurice Otieno t/a O.M Otieno & Co. Advocates vs Africa Merchant Assurance Co. Ltd & another**, this court directed that the order arising from the referenced file shall apply to this file.

4. In its Replying Affidavit dated 15th October 2025 sworn by Cerere Kihoro, the Garnishee's legal counsel, the Garnishee stated that Till Number 4106404 was held and operated by the Respondent. The Garnishee further stated that it held Kshs 209,154/= in a special utility account and that its compliance was pegged on the availability of funds in the Respondent's M-pesa account.

5. It was the Garnishee's response that it was ready and willing to release the funds to the Applicant net of its legal costs of Kshs 35,000/=.

6. Flowing from the above, I make the following orders: -

- I. An order for *Garnishee Absolute* is issued against Safaricom PLC that all monies belonging to the Judgement Debtor (Africa Merchant Assurance Company Limited) and held by the Garnishee in Till Account Number 4106404 be attached to recover Kshs 209,154/= owed to the Applicant by the Respondent.
- II. Each party shall bear their own costs in this Application.

**Ruling delivered, dated and signed at Bomet this 29th
day of October, 2025.**

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**Hon. JULIUS K. NG'ARNG'AR
JUDGE**

Ruling delivered in the presence of:

Siele/Susan (Court Assistants).

Otieno for the Applicant

Mugumya for the Respondent

Metale for the Garnishee