

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI

CAUSE NO. E588 OF 2023

(Before Hon. Lady Justice Agnes Kitiku Nzei)

VINEETA KHEMANI MOHANCLAIMANT

VERSUS

CCI KENYA LIMITEDRESPONDENT

RULING

1. Judgment in the suit herein was on 30th September, 2024 entered in favour of the Claimant against the Respondent as follows:-
 - (a) *Declaration that termination of employment on account of redundancy was unfair.*
 - (b) *Equivalent of 3 months gross salary*
Kshs.3,831,300/=.
 - (c) *Certificate of service unless already issued.*
 - (d) *Costs of the suit.*

(e) Interest on (b) above at Court rates till payment in full.

2. Costs are shown to have been taxed at **Kshs.282,576/=** vide the Taxing Officer's Ruling delivered on 11th June, 2025.
3. Execution proceedings thereafter issued, and on 28th August, 2025, the Respondent/Applicant filed a Notice of Motion dated 28th August, 2025 seeking the following Orders:-
 - (a) Spent.*
 - (b) That the Court be pleased to stay the warrants of attachment and sale of movable property issued herein on 27th August, 2025 pending the hearing and determination of the application.*
 - (c) That the Court be pleased to set aside the warrants of attachment and sale of movable property issued herein on 27th August, 2025.*
4. The application sets out on its face the grounds upon which it is brought, and is anchored on the supporting affidavit of **Conrad Maloba Advocate** sworn on 28th August, 2025. It is deponed in the said supporting affidavit:-

- (a) that the Claimant/Respondent was awarded **Kshs.3,831,300/=** plus costs, and that upon being served with the decree, the Respondent/Applicant promptly made payment of Kshs.3,000,000/= and withheld the amount of **Kshs.1,220,605.05** being applicable statutory deductions as provided under **Section 49(2) of the Employment Act.**
- (b) that the Claimant/Applicant has sought to recover the amount of **Kshs.1,220,605.05** being the amount withheld by the Respondent/Applicant as statutory deductions, and has instructed Auctioneers to proclaim and attach the Applicant's property against the decree.
- (c) that the Claimant/Respondent maintains that the Respondent/Applicant is not obligated to deduct the statutory amount from the decretal sum, while the Applicant maintains that it is required to deduct the said amount.

5. The application is opposed by the Claimant vide a replying affidavit sworn on 18th September, 2025, restating the

averments made in the supporting affidavit, and additionally stating that the Respondent/Applicant's Advocates have no duty **"withholding"** statutory deductions indefinitely on behalf of Government Institutions, including KRA. That awarded costs and interest are not subject to statutory deductions.

6. The application was first placed before the Vacation Court on 29th August, 2025. An interim order of stay of execution was granted, and parties were directed to file written submissions on the application. Written submissions have since been filed.

7. Section 49(2) of the Employment Act states as follows:-

"(2) Any payment made by the employer under this Section shall be subject to statutory deductions."

8. Sums referred to in **Section 49(2) of the Employment Act** include payments referred to in **Sections 49(1) (a), (b) & (c) of the Act**. These include unpaid wages for days worked during the month of termination, notice pay and any

compensation ordered to be paid for unjustified termination of employment.

9. It is worthy noting that costs of Court proceedings/suit ordered to be paid by an unsuccessful party to the successful party in a suit and interest ordered are **not** mentioned among payments that are to be subjected to statutory deductions under Section 49(2) of the Employment Act.
10. Further, statutory deductions to be made are those which applied to the Claimant/terminated employee at the time of termination of employment. Any deductions based on laws enacted subsequently, **if any**, are **not** lawful as the law does not apply in retrospect.
11. Deductions **lawfully** effected by an employer **must always be promptly remitted to the statutory body/public entity** to which such deductions are payable. The Respondent/Applicant herein has **not** stated what statutory deductions were effected on the Judgment sum, how the sum deducted was arrived at and whether or not the

deducted sums were remitted, and evidence of such remittance.

12. The Court's record shows that the Claimant/Respondent's employment was terminated **on 30th June, 2023**, and that statutory deductions which applied to her were PAYE, NSSF and NHIF. Statutory deductions can only be limited to these, at the rate applicable at the time of termination.

13. In sum, and having considered the submissions filed, the Notice of Motion dated 28th August, 2025 is determined in the following terms:-

(a) There will be a stay of execution of this Court's decree herein to the extent of the applicable statutory deductions, and at the rate applicable to the Claimant/Respondent at the time of termination.

(b) The rightly deducted sums shall be remitted to the relevant statutory Government Agencies within thirty days of today, and evidence of such remittance shall be shared by the Respondent/Applicant to the

Claimant/Respondent and/or her Advocates on record.

(c) Each party shall bear its own costs of the application.

14. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS
28TH DAY OF NOVEMBER 2025**

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:

Mr. Ochieng for the Claimant

Miss Korir for the Respondent/Applicant

ORIGINAL