



Simiyu p/a Makokha Wattanga & Luyali Advocates v Africa Merchant Assurance Co Ltd; Safaricom Plc (Garnishee) (Miscellaneous Civil Application 127 of 2018) [2025] KEHC 17816 (KLR) (17 November 2025) (Ruling)

Neutral citation: [2025] KEHC 17816 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
MISCELLANEOUS CIVIL APPLICATION 127 OF 2018
MS SHARIFF, J
NOVEMBER 17, 2025**

BETWEEN

**WATANGA SIMIYU P/A MAKOKHA WATTANGA & LUYALI
ADVOCATES DECREE HOLDER**

AND

AFRICA MERCHANT ASSURANCE CO LTD RESPONDENT

AND

SAFARICOM PLC GARNISHEE

RULING

1. The Applicant Wattanga Simiyu P/A Makokha Wattanga & Luyali Advocates have moved this court vide a notice of mention dated 27.10.2025, which is supported by the affidavit of Serah Wanjiku Karuga sworn on even date and it craves for the following orders: -
 - i. Spent
 - ii. Spent
 - iii. Spent
 - iv. That a decree absolute be issued and all monies accrued and payable by the Garnishee Safaricom PLC to the Respondent in respect of all savings, fixed and current account/till number in particular M-pesa Till No XXXXXX as operating account held by the Respondent/Judgement Debtor with the Garnishee is hereby attached and be paid to the applicant/Decree Holders Advocate through bank account to satisfy the decree herein in the sum of Ksh. 1,100,081/-



- v. The cost of this application be provided for.
2. The Applicant's case is that it has obtained decrees in this application and in Bungoma HCC Misc Applications Nos 128,129, 130, 132 and 133 all of 2019 totaling to Ksh 1,100,000 and that it has obtained information that the Judgement debtor operates an Mpesa Till No. XXXXXXX with the Garnishee hence its initial prayer for an order NISI to issue; the same was duly issued in the first instance.
 3. The Applicant now craves that the Order nisi be made absolute.
 4. The Garnishee has duly filed a replying affidavit sworn on 10.11.2025 by Stella Mutindi Mutua who deposed that the Judgement debtor indeed operates an account with the Garnishee being Mpesa till no. XXXXXXX and that the said account has sufficient funds to settle the Judgement sum of Ksh 1,100,081.
 5. The Respondent has filed a replying affidavit sworn by Racheal Mbembe on 5th November 2025, wherein it is deposed that the Judgment debtor is overwhelmed by unsettled Judgement and thus needs time to pay the Judgement sum by way of instalments Analysis and determination.
 6. This application was canvassed by way of oral submissions. It is instructive to note that these are garnishee proceedings wherefore the response of the Judgement debtor is of no consequence, and had it been the intention of the Judgement debtor to settle the Judgement sum by way of instalments then it should have moved this court appropriately.
 7. I have considered the oral submissions of parties' advocates and in light of the admission by the garnishee that Mpesa Till No. XXXXXXX has sufficient funds to settle the Judgement sum of Ksh 1,100,081

I do hereby allow this application and the order nisi issued on 28.10.2025 is hereby made absolute and I order that all monies accrued and payable by garnishee Safaricom PLC of all savings, fixed and current account /Till Number specifically Mpesa -Till No. XXXXXXX as operating account held by the Judgement debtor with the Garnishee is hereby attached and be paid to the decree holder's advocates through bank accounts to satisfy the decree herein in the sum of Ksh 1, 100, 081/-

8. The Judgement debtor shall meet the costs of the Decree holder /Applicant and the Garnishee assessed at Ksh 25,000/- for each of them.
9. The Garnishee is hereby ordered to pay Ksh 750/- on account of unpaid court fees and in the event of default to comply within 5 days from the date hereof the order on costs to the garnishee shall stand vacated.

It is hereby so ordered.

DELIVERED, SIGNED AND DATED AT BUNGOMA THIS 17TH DAY OF NOVEMBER, 2025.

MWANAISHA S. SHARIF

JUDGE

