



Ga Insurance Company Limited v Omondi & 2 others (Miscellaneous Civil Application E104 of 2025) [2025] KEHC 18324 (KLR) (4 December 2025) (Ruling)

Neutral citation: [2025] KEHC 18324 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
MISCELLANEOUS CIVIL APPLICATION E104 OF 2025
FN MUCHEMI, J
DECEMBER 4, 2025**

BETWEEN

GA INSURANCE COMPANY LIMITED APPLICANT

AND

GENNEVIEVE AWINO OMONDI 1ST RESPONDENT

I & M BANK LIMITED 2ND RESPONDENT

SAFARICOM PLC 3RD RESPONDENT

RULING

Brief Facts

1. The application dated 13th June 2025 seeks for orders of review of the record in Ruiru CMCC No. E155 of 2025 under powers of this court in exercise of its supervisory jurisdiction under Article 165 (6) of the Constitution to issue appropriate directions to ensure fair administration of justice.
2. The application is unopposed.

Applicant's Case

3. The applicant states the 1st respondent instituted Ruiru CMCC No. E155 of 2025 Gennevieve Awino Omondi vs GA Insurance Company Ltd in enforcing the judgment obtained in Ruiru SCCC No. E513 of 2024 Gennevieve Awino Omondi vs Angela Warau Mwangi. On the basis of contested service, the 1st respondent secured an ex parte judgment in Ruiru CMCC No. E155 of 2025 and without issuing a Notice of Entry of Judgment to the applicant set in motion the execution process by way of applying to garnishee the applicant's bank Account No. 00200xxx and 02086xxx with I & M Bank Ltd and Safaricom Paybill No. 870xxx. On 29th May 2025, the garnishee application was placed before the



trial court and the court issued a garnishee order nisi and listed the matter for mention for directions on 12th June 2025.

4. The applicant states that it filed an application dated 5th June 2025 seeking to stay the execution proceedings and the application was placed before the court on 10th June 2025. The applicant further states that it complied in effecting service as directed by the trial court and both applications were scheduled for mention for directions on 12th June 2025. On 12th June 2025, the applicant states that its counsel joined court virtually at 9.00 am but was informed that the trial court had commenced its proceedings at 8.00 am.
5. The applicant states that upon application by the respondent, the trial court granted the order rendering the garnishee order nisi issued on 29th May 2025 absolute as against the 2nd respondent. The applicant argues that failure to attend court was an honest mistake borne of the normal practice that the court's proceedings normally start at 9.00am.
6. The applicant avers that it had responded to the application dated 23rd May 2025 in which it contested the indebtedness to the plaintiff and further applied to set aside the ex parte judgment against the defendant, which application ought to have taken precedence.
7. The applicant states that it moved the trial court the same day seeking to stay the implementation of the garnishee order nisi however the trial court certified the matter urgent but declined to stay the implementation of the garnishee order nisi absolute as against the 2nd respondent. The trial court scheduled the matter for mention for directions on 9th July 2025 without any safeguards to avert the application dated 12th June 2025 being rendered otiose.
8. The applicant argues that the trial court despite being aware of an application challenging the ex parte judgment and more wanting on a date when the 1st respondent's application which was due for mention for directions and there having been a response to the application, issued garnishee order nisi which demonstrates bias, partiality or favoritism on the court's part. Further, the decree in Ruiru CMCC No. E155 of 2025 upon which the garnishee was issued is under challenge, a fact that the court ought to have appreciated before granting the orders sought, itself a clear indication of bias, partiality or favoritism.
9. The applicant is apprehensive it will be greatly prejudiced if any further proceedings are to be taken before the trial court before the instant application is heard and determined. Further, a grave injustice stands to be visited upon it and continues to be visited as long as the order of the trial court continues to be in force which calls for the invocation of the supervisory role and mandate of this court.

The Law.

10. The High Court's power of revision is set out in Article 165 (6) and (7) which provides:-
 - (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but over a superior court.
 - (7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.



11. The revisionary jurisdiction of the High Court was discussed by Odunga J (as he then was) in a persuasive decision of Joseph Nduvi Mbuvi vs Republic [2019] eKLR:-

“In my considered view, the object of the revisional jurisdiction of the High Court is to enable the high Court in appropriate cases, whether during the pendency of the proceedings in the subordinate court or at the conclusion of the proceedings to correct manifest irregularities or illegalities and give appropriate directions on the manner in which the trial, if still ongoing, should be proceeded with. In other words, the High Court’s revisionary jurisdiction includes ensuring that where the proceeding in the lower court has been legally derailed, necessary directions are given to bring the same back on track so that the trial proceeds towards its intended destination without hitches. Not only is the jurisdiction exercisable where the subordinate court has made a finding, sentence or order but goes on to state that it is also exercisable to determine the regularity of any proceedings of any such subordinate court as well.”

12. It is evident as borne by the record that the 1st respondent filed a declaratory suit against the applicant Ruiru CMCC No. E155 of 2025 to enforce the award of Kshs. 280,167/- in Ruiru Small Claims Civil Case No. E513 of 2024 Gennevieve Awino Omondi vs Angela Warau Mwangi. The 1st respondent served the applicant with the summons to enter appearance and pleadings on 16th April 2025. The applicant acknowledged service by stamping the summons to enter appearance. The applicant did not enter appearance or file defence. The 1st respondent then requested for entry of default judgment and the trial court entered default judgment on 16th May 2025.
13. The 1st respondent proceeded to execute the decree and filed an application dated 23rd May 2025 seeking for a garnishee order nisi against the 2nd and 3rd respondents herein and directing all monies belonging to the applicant held in the accounts in the 2nd and 3rd respondents being I & M Bank Account No.s 00200xxx and 02086xxx and Safaricom PLC Paybill Account No. 870xxx, be attached to answer the decree for the sum of Kshs. 357,580. On 29th May 2025, the trial court directed that the application be served on the applicant and the 2nd and 3rd respondents by 30th May 2025. Further, the 2nd and 3rd respondents and the garnishees were directed to serve their responses by 5th June 2025 and the application was slated for mention on 12th June 2025 for directions.
14. On 5th June 2025, the applicant herein filed an application seeking for orders of stay of the garnishee order nisi issued by the court on 29th May 2025; setting aside of the interlocutory ex parte judgment entered on 16th May 2025 and grant of leave to file statement of defence out of time. On 10th June 2025, the trial court directed that the applicant serve the respondents before 10.00 am on 11th June 2025 and slated the matter to be mentioned virtually on 12th June 2025 for further directions.
15. The applicant filed its Replying Affidavit on 9th June 2025 in response to the 1st respondent’s application dated 23rd May 2025. On 12th June 2025, the matter came up for directions and counsel for the 3rd respondent requested for more time as they had not yet filed their replying affidavit. The counsel for the 1st respondent Mr. Njagi prayed for the orders against the 2nd respondent to be made absolute and he added that he did not oppose the application by the 3rd respondent for more time. The counsel further informed the court that they were served with the application dated 5th June 2025. However, the applicant was not present and requested that the application be dismissed. The trial court granted prayer 3 of the application, making the garnishee order nisi absolute against the 2nd respondent and gave the 3rd respondent seven days to put in a response to the said application. The trial court further directed that a response to application dated 5th June 2025 to be filed within seven days.



16. The applicant then filed an application dated 12th June 2025 under certificate of urgency seeking for orders of stay of the implementation of the orders issued on 12th June 2025 and for setting aside of the orders dated 12th June 2025 which made the garnishee order nisi issued on 29th May 2025 absolute against the 1st garnishee. On 12th June 2025, the trial court directed that the applicant serve the respondent within 3 days and the respondent put in a reply within 14 days. The matter was scheduled for mention virtually on 9th July 2025 for further directions.
17. The chronology of events in the proceedings of the honourable magistrate, no bias or partiality has been demonstrated on part of the magistrate. It is not possible to deduce from the court proceedings whether the trial court began its court at 8.00am or 9.00am. This application would have been better dealt with by the trial court as an application for review.
18. I am of the considered view that the applicant was accorded fair hearing by the magistrate and that no bias or partiality has been demonstrated. I therefore find this application lacking merit and it is hereby dismissed with no order as to costs.
19. It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 4TH DAY OF DECEMBER 2025.

F. MUCHEMI

JUDGE

