

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**MISCELLANEOUS CIVIL APPLICATION NO. E121 OF 2023**

**KINYUA  
ADVOCATES.....APPLICANT/  
HOLDERS**

**&**

**MAINGI  
DECREE**

**VERSUS**

**TRIDENT INSURANCE CO LTD.....RESPONDENT/JUDGEMENT  
DEBTOR**

**SAFARICOM PLC  
GARNISHEE**

**RULING**

1. This honourable court has been moved under Section 51 (2) of the Advocates Act vide a Notice of Motion dated 7<sup>th</sup> July 2025 for the court to issue Garnishee Order nisi against the Garnishee Safaricom Limited to attach all monies due and belonging to Trident Insurance Co. Ltd. In her credit or on her MPESA PAYBILL NUMBER 985850 and or in any other Paybill only together or till Number or do much as is sufficient to the decree of Kshs. 186,457 together with Garnishee proceeding amounting to kshs. 30,000 amounting to Kshs. 216,457.
2. The applicant also sought:
  - a) *That the Garnishee, Safaricom Limited, shall upon being served with Garnishee Order Nisi issued by this Honourable Court, notify the Court in writing of what sum is held in the said Mpesa PayBi11 Number 985850 and due to the Judgment Debtor, Trident Insurance Co. Limited, and if the Garnishee does not dispute the debt, she shall pay to M/S Kinyua & Maingi Advocates the said sum of KES 186,457 plus costs of this Garnishee application amounting to Kshs 216,457..*

b) That if the Garnishee, SAFARICOM LIMITED disputes holding funds and monies to the credit of Trident Insurance Co. Limited in Mpesa Paybill Number 985850 then she the Garnishee be ordered by this Honourable court to appear and state the same during the hearing of the Applicants application.

c) That the Garnishee orders nisi be made absolute.

3. The Application is supported by grounds on the face of the Application together with the affidavit of *Njoki Kinyua* of even date in support of the application.
4. The Garnishee upon being served, filed an Affidavit sworn by *Cerere Kihoro* on 23rd July 2025 averring *inter alia* that they had checked their records and confirmed that the Respondent/Judgement Debtor's Paybill account no. 985850 which is a utility account, had sufficient funds to settle the decretal amount of Kshs. 99,046. It was averred that the Garnishee was capable and willing to satisfy the entire decretal amount.
5. The Garnishee however prays for its legal costs of Kshs. 30,000.
6. In considering the present Application, I am minded that it emanates from this court's orders on 28<sup>th</sup> May 2025 entering judgement in favor of the Applicant as against the Respondent for Kshs. 65,240 being the Deputy Registrar's Certificate of Taxation of costs, plus costs.
7. It is demonstrated by the Applicant/Decree holder that pursuant to the said order, a decree was obtained against the Respondent for the sum of Kshs. 69,046 which the Respondent /Judgement Debtor has failed to honor, giving rise to the instant application.

8. Upon considering the Application, the supporting affidavit and the pleadings herein, I have identified that what commends for determination is whether the application for Garnishee Order nisi is merited in the circumstances and whether the Garnishee should be awarded its costs for this application.

9. In the instant case, no reference has been filed by the Respondent/Judgment Debtor challenging this Application. The Garnishee has entered appearance, filed a Replying Affidavit and confirmed availability of funds.

10. The relevant provision of law regarding Garnishee proceedings is located at **Order 23 Rule 4** of the Civil Procedure Rules which provides that:

***“ If the garnishee does not dispute the debt due or claimed to be due from him to the judgement-debtor, or he does not appear upon the day of hearing named in an order nisi, then the court may order execution against the person and goods of the garnishee to levy the amount due to him from him, or so much thereof as may be sufficient to satisfy the decree, together with the costs of the garnishee proceedings; and the order absolute shall be in Form No. 17 or 18 of Appendix A, as the case may require.”***

11. In light of the above, I find that the Application is merited and hereby order as follows:

- i. The Garnishee order nisi is granted as prayed with costs to the Applicant.***
- ii. Costs to the Garnishee subject to taxation.***

**DATED, SIGNED AND DELIVERED ELECTRONICALLY THIS 18<sup>TH</sup> DECEMBER, 2025.**

**HON. T. W. Ouya**  
**JUDGE**

ORIGINAL