



REPUBLIC OF KENYA

IN THE SENIOR PRINCIPAL MAGISTRATE'S COURT AT MAKINDU

CIVIL CASE NO E113 OF 2022

**ALFRED KYALO KALOKI, THERESIA NDINDA KALOKI AND PURITY MBITHE MULI (Suing as the Administrators and/or Personal representatives of the estate of LUCIA MUNYIVA KALOKI (DECEASED)).....PLAINTIFFS/
RESPONDENTS**

VERSUS

**DAVID KISAKA OMIDO.....1ST
DEFENDANT/APPLICANT**

MODERN COAST COMPANY LIMITED.....2ND DEFENDANT/APPLICANT

HADAR EXPRESS LIMITED.....3RD DEFENDANT/APPLICANT

RULING

INTRODUCTION

Regrettably, this application exemplifies an unnecessary resort to the Court in circumstances where no real controversy meriting judicial determination exists. The issues raised were eminently capable of being resolved by the parties themselves through consultation and compromise, and the invocation of the Court's jurisdiction in such a matter serves neither the interests of justice nor the efficient administration of the Court's docket. The application need not have engaged the scarce time and resources of the Court. With a

measure of candour, goodwill and restraint, the parties could reasonably have resolved amicably without recourse to litigation.

Courts exist to determine genuine disputes requiring judicial intervention, not to mediate avoidable disagreements that parties are well positioned to settle through dialogue and cooperation. The filing of this application reflects a failure to embrace proportionality, cooperation and alternative dispute resolution, principles that underpin the effective and efficient administration of justice. While parties are entitled to approach the Court for redress, that entitlement carries with it a corresponding duty to act reasonably. Counsel for the parties should have done better.

THE APPLICATION

Before me is an application dated 25/9/2025 filed by the defendants/judgment debtors. The application mainly seeks orders compelling the plaintiff's Advocates to provide their KRA PIN and any other document necessary to effect payment of the decretal sum herein, by the Defendants' Insurer. The application is premised on the grounds that the defendants' insurer is a public agency and it is a requirement that for payment to be done, the payee details including the KRA pin ought to be included in the company system. Further, the defendants' counsel have on numerous occasions requested counsel for the plaintiff to provide the KRA PIN but she has remained adamant. That the circumstances have created a stalemate and if not addressed, the plaintiff is likely to execute the decree against the defendants, yet the Insurer is ready and willing to pay.

Counsel for the plaintiff opposed the application by filing a Replying affidavit sworn by herself. Counsel argued that neither the plaintiffs nor counsel have offered any services to the defendants or their Insurer and as such, they do not need the KRA PIN to effect payment of the decretal sum. Counsel contends that the request for the KRA PIN has not been made in good faith since the defendants or their insurer intends to deduct VAT yet no services were offered to the defendants or their insurer by the plaintiff and their counsel. The plaintiff argued that if the application is allowed, the insurer will withhold tax while processing the payment yet this is not a matter in which tax ought to be withheld. That in effect, the entire decretal sum will not be paid. Counsel for the plaintiffs argued that the

provisions of the Tax Procedures Act relied upon by the defendants are not applicable to payments of decretal sums and there is no law that requires a Decree holder to provide for their KRA PIN before payment.

MAIN ISSUES FOR DETERMINATION

In my opinion, the main issue for determination is whether the court can compel counsel for the plaintiff to provide the KRA PIN for purposes of payment.

SUBMISSIONS BY THE PARTIES

The parties filed submissions in support of their divergent views and relied on authorities. I have considered the submissions and authorities relied upon.

ANALYSIS AND DETERMINATION

I have considered the application as well as the parties' submissions and authorities relied upon. The gist of the application is that the defendants' insurer requires the KRA PIN in order to process payment. The defendants have not specifically stated that they need to or will withhold tax or charge VAT while making the payment. This is an issue that has been raised by the plaintiffs. It has been stated by the defendants that since their insurer is a Government agency, payment ought to be made through IFMIS and that will require, among others, the plaintiff's counsel KRA PIN.

I agree with the defendants that the plaintiffs' counsel's allegation that the request is for purposes of withholding tax or charging VAT is speculative. The defendants relied on two authorities which I have considered. In the authority of *Khetia Drapers Limited v Kiunga [2025] KEHC 12402 (KLR)*, the court dealt with a similar situation. The court found that the request to provide a KRA PIN for purposes of payment was reasonable and allowed the application. The same position prevailed in the authority of *Michieka v Gikandi & 6 others [2023] KEELC 20937 (KLR)*.

There is no evidence to show that the defendants or their insurer intends to withhold tax or charge VAT on the payment to be made to the plaintiffs. The clear intention from the application is that they need to include the data in the system so as to process payment. Anything else is speculative. In any event, if the defendants or their insurer withholds tax or charges VAT, the plaintiffs will be at liberty to move the court for a relief. In my view,

declining to provide the KRA PIN based on the fear of the unknown was not prudent. A KRA PIN is mainly an identifier, just like a national identity number. When a person asks for the KRA PIN for purposes of processing payment, it does not necessary mean that they intend to withhold tax or charge VAT. It all depends on the nature of the payment to be made.

DISPOSITION

The application seeks that the court compels counsel for the plaintiff to provide the KRA PIN so as to get paid. I have already made a finding that the request by the defendants is reasonable and there is nothing to show that it is made in bad faith. Most entities require a KRA PIN as an identifier, in order to make payment. The plaintiffs are entitled to the decretal sum but my view is that the court cannot compel them to receive payment. If indeed the plaintiffs wish to be paid, it would be prudent for their counsel to provide the KRA PIN. The defendants cannot be faulted for demanding for the information in order to effect payment.

Having found that the request by the defendants for the KRA PIN is reasonable, I do find, in the same breath, that withholding of the information by counsel for the plaintiff was unreasonable. I will not expressly compel counsel for the plaintiff to provide the KRA PIN but if indeed she wishes to receive payment on behalf of the plaintiffs, counsel should not withhold the information requested. Consequently, I direct that in the event that counsel elects to provide the KRA PIN, she should do so within 14 days from today. If counsel fails to provide the KRA PIN within the stipulated period, the defendants shall deposit the decretal sum in court, within 14 days from the expiry of the period granted to the plaintiffs. Counsel for the plaintiffs is reminded that if the decretal sum is deposited in court, the KRA PIN will still be required to process the disbursement. In the meantime, no execution proceedings shall be carried out against the defendants until after the expiry of the period herein stated and upon default by the defendants to deposit the decretal sum in court.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MAKINDU THIS 16TH DAY OF
DECEMBER, 2025.**

Y.A SHIKANDA

SENIOR PRINCIPAL MAGISTRATE.

