

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
JUDICIAL REVIEW MISC. APPLICATION NO. E006 OF 2023
EBUBEKIR SAHIN.....APPLICANT
VERSUS
PARAGON ELECTRONICS LIMITED.....1ST RESPONDENT
AND
BAMBURI SPECIAL PRODUCTS LTD.....1ST INTERESTED PARTY
AND
ABSA BANK KENYA PLC.....GARNISHEE
RULING

1. I have perused the Notice of Motion dated 16/1/2026 filed under certificate of urgency. I do not find it urgent. I therefore decline to certify it as urgent.
2. On the prayers sought, I observe that the application is brought pursuant to **Order 23 Rules 1 & 2 of the Civil Procedure Rules.**
3. This provision concerns attachment of debts. Rule 1 provides for the order for the attachment of debts and a procedure to be followed by a decree-holder or his advocate.
4. The Rules permit an *ex parte* application of a decree holder for consideration by the court which, upon being satisfied that the judgment debtor owes the decree-holder a debt on a decree, and that the debt is unsettled, with evidence that the garnishee owes or holds funds for the

judgment debtor, the court may order for attachment of such funds or under **Rule 2**, deposits held by the garnishee for the judgment debtor.

5. Upon such attachment, the court may issue a garnishee nisi and give the garnishee the opportunity to notify the court whether it is in possession of the funds or deposits sufficient enough to settle the decree **Order 23 Rules 1 & 2 of the Civil Procedure Rules** provides:

ORDER 23 - ATTACHMENT OF DEBTS

1. Order for the attachment of debts [Order 23, rule 1]

(1) A court may, upon the ex parte application of a decree-holder, and either before or after an oral examination of the judgment-debtor, and upon affidavit by the decree-holder or his advocate, stating that a decree has been issued and that it is still unsatisfied and to what amount, and that another person is indebted to the judgment-debtor and is within the jurisdiction, order that all debts (other than the salary or allowance coming within the provisions of Order 22, rule 42 owing from such third person (hereinafter called the “garnishee”) to the judgment-debtor shall be attached to answer the decree together with the costs of the garnishee proceedings; and by the same or any subsequent order it may be ordered that the garnishee shall appear before the court to show cause why he should not pay to the decree- holder the debt due from him to the judgment-debtor or so much thereof as

may be sufficient to satisfy the decree together with the costs aforesaid.

(2) At least seven days before the day of hearing the order nisi shall be served on the garnishee, and, unless otherwise ordered, on the judgment-debtor.

(3) Service on the judgment-debtor may be made either at the address for service if the judgment debtor has appeared in the suit and given an address for service, or on his advocate if he has appeared by advocate, or if there has been no appearance then by leaving the order at his usual residence or place of business or in such manner as the court may direct.

(4) An order nisi shall be in Form No. 16 of Appendix A.

2. Attachment of deposits [Order 23, rule 2]

A credit in a deposit account with a bank or other financial institution shall for the purposes of this Order be a sum due or accruing and shall be attachable accordingly notwithstanding that any of the following requirements is applicable to the account and has not been complied with—

(a) that notice is required before any money is withdrawn;

(b) that a personal application must be made before any money is withdrawn;

(c) that a deposit book must be produced before any money is withdrawn; or

(d) that a receipt for money deposited in the account must be produced before any money is withdrawn.

6. Under Order 23 Rule 3, on the Effect of garnishee order [Order 23, rule 3], Service of an order that debts due to a judgment-debtor liable under a decree shall be attached, or notice thereof to the garnishee in such manner, as the court may direct, shall bind such debts in his hands.
7. The applicant seeks for Garnishee Order Nisi attaching all monies held to the credit or benefit of Ebubekir Sahin in account No.7007990 and or any other accounts at ABSA Bank (K) PLC the Garnishee to answer the decree for a total of Kshs.244,009.47 which includes Kshs.199,003 plus interest from 28/2/2024 to 14th January 2026.
8. He also prays that the Garnishee, ABSA Bank, be ordered to file in court forthwith a comprehensive statement of accounts held for the benefit of Ebubekir Sahin showing detailed particulars from the date of Ruling of 27th February 2024 until the date of filing the said statements in court.
9. He further prays that the Garnishee be ordered to appear before this court on a date and time to be appointed by the court to show cause why it should not release to the decree holder all monies, or such monies as may be sufficient to satisfy the decretal amount being the decree plus accrued

interest from A/C No.7007990 and or any other accounts held for the benefit of Ebubekir Sahin. He also prays for costs.

10.I have perused the file and I find no order of stay of execution of decree certificate of costs issued on 27/2/2024 following the dismissal of the Reference on 3/4/2025.

11.The applicant has demanded for settlement but no settlement has been forthcoming.

12.In the premises, I hereby grant prayers 2,3 and 4 of the Notice of Motion dated 16/1/2026 and direct that the Garnishee ABSA BANK KENYA PLC WAIYAKI WAY through its branch manager does appear in court on 27/1/2026 to show cause why it should not release the entire sum of Kshs.244,009.47 held by it in A/C No.7007990 or in any other account held by the judgment debtor Ebubekir Sahin.

13.Decree order Nisi to issue in the prescribed form under the Civil procedure Rules and be served upon the garnishee and the judgment debtor forthwith.

14.I so order.

Dated, Signed and Delivered at Nairobi this 20th Day of January, 2026

R.E. ABURILI

JUDGE