



REPUBLIC OF KENYA



KENYA LAW
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Kwemboi v Mogus Kenya Limited; Equity Bank (Garnishee) (Cause 285 of 2016) [2026] KEELRC 237 (KLR) (30 January 2026) (Ruling)

Neutral citation: [2026] KEELRC 237 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE 285 OF 2016
J RIKA, J
JANUARY 30, 2026

BETWEEN

CALEB KWEMBOI CLAIMANT

AND

MOGUS KENYA LIMITED RESPONDENT

AND

EQUITY BANK GARNISHEE

RULING

1. The Claimant applies, through an application dated 28th July 2025, for garnishee orders against the Respondent's Equity bank account No. 0560292276844.
2. The amount claimed is Kshs. 511,780.
3. The application is founded on the affidavit of the Claimant, sworn on 28th July 2025. He explains that Judgment was entered in his favour for the amount of Kshs. 752,200, with costs and interest, less statutory deductions.
4. Costs were assessed at Kshs. 164,655.
5. He states that the Respondent paid Kshs. 578,000, leaving a balance of Kshs. 511,780, which he seeks to recover by way of garnishment.
6. The Respondent opposes the application through an affidavit sworn on 28th October 2025, by its Director, Fregustus Musyoka.
7. Fregustus admits that Judgment was entered in favour of the Claimant, in the sum of Kshs. 752,200, and costs subsequently awarded at Kshs. 164, 655.



8. The statutory deductions amounted to Kshs. 273,946.
9. The total amount due was Kshs. 734,756. The Respondent paid Kshs. 642,250. The balance due is Kshs. 92,100. There is no need for garnishment.
10. The Claimant instructed Auctioneers, who raised a fee note of Kshs. 184,469 which is yet to be taxed.
11. Parties agreed that the application is considered and determined on the strength of their affidavits and submissions. They confirmed filing and exchange of submissions at the last mention before the Court on 17th December 2025.

The Court Finds: -

12. The dispute appears to be based on the Claimant's misapprehension of statutory deductions, expressed in his submissions dated 10th December 2025, under the subtitle 'statutory deductions.'
13. He submits, " Firstly, the Courts have repeatedly held that PAYE, NHIF and NSSF apply to wages/ salary, and not to compensation, which is neither remuneration nor salary, but a judicial award. The same is therefore a judicial award, which ought to have been paid directly to the Decree-holder..."
14. This submission is discounted by a catena of judicial authorities from the Court of Appeal, including *Directline Assurance Co. Limited v. Jeremiah Wachira Ichaura* [2016] e-KLR; *Kioko Joseph [suing as the legal representative of the estate of Joseph Kilinda] v. Bamburi Cement Limited*; and *Andrew Mukite Saisi v. Tracker Group of Companies Limited* [2020] e-KLR.
15. It was established in all these binding decisions, that awards of the Court are subject to statutory deductions. The Claimant has not cited any judicial authority, establishing otherwise.
16. The Court of Appeal invoked Sections 19 [1] [f] and 49 [2] of the *Employment Act*; Section 37 of the Income Tax; and KRA's Employers' Guide on PAYE, in establishing this obligation.
17. These decisions of the Court of Appeal have been relied upon in this Court's decisions on the subject, including recently, in *Devyan Food Industries Kenya Limited v. Kanga* [2025] KEELRC 1872 [KLR].
18. It is not correct as submitted by the Claimant, that statutory deductions do not apply to 'judicial awards,' but only to salary/wages. His submission is a misapprehension of the law.
19. The submission by the Claimant, that there is no proof of remittance of the statutory deduction to the relevant bodies, does not justify garnishment. The Claimant should pursue proof of payment, and redress for non-remittance, if true that remittance has not been made, with the relevant statutory bodies.
20. The employment dispute before this Court has come to an end. The decretal sum has been satisfied, and statutory deductions legally made on the award of the Court. If there is dispute on remittance of taxes, such dispute should be placed before the right dispute resolution mechanisms.

It Is Ordered: -

- a. The application for garnishment filed by the Claimant, dated 28th July 2025 is declined.
- b. No order on the costs.
- c. This file shall be marked as closed.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, UNDER RULE 68 [5] OF THE E&LRC [PROCEDURE] RULES, 2024, THIS 30TH DAY OF JANUARY 2026.



JAMES RIKA
JUDGE

