



Kenya Union of Commercial Food & Allied Workers Union v Jade Collections Limited (Cause 1342 of 2013) [2026] KEELRC 86 (KLR) (23 January 2026) (Ruling)

Neutral citation: [2026] KEELRC 86 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1342 OF 2013
JW KELI, J
JANUARY 23, 2026**

BETWEEN
KENYA UNION OF COMMERCIAL FOOD & ALLIED WORKERS UNION CLAIMANT
AND
JADE COLLECTIONS LIMITED RESPONDENT

RULING

1. The judgment debtor filed the instant application by way of Notice Motion dated 18th September 2025 seeking for the following orders-
 - a. Spent
 - b. Spent
 - c. That the Honourable Court be pleased to order stay of execution of the Judgment/decision of the Honourable Lady Justice Jemimah Wanza Keli given and delivered on the 18th day of July 2025 and all the consequential orders pending the hearing and determination of the application.
 - d. That the Honourable Court be pleased to Order that the Applicant/Judgment Debtor be and is hereby permitted and ordered to defray/pay the decretal sum plus interest and costs by way of six (6) monthly installments paid on or before the fifteenth (15th) day of every month from the date of the order until payment in full.
 - e. That the Honourable Court be pleased to restrain the Respondent/Decree Holder from levying execution herein for as long as the Applicant/Judgment Debtor pays the proposed monthly installments.
 - f. That the costs of this Application be provided for.



- g. That the Court be pleased to grant any such or further order which is fit and expedient.

Grounds of application

2. That pursuant to the Judgment/decision of the Honourable Lady Justice Jemimah Wanza Keli given and delivered on the 18th day of July 2025, this Honourable Court entered Judgment for the Claimant against the Respondent as indicated below:-

S/No. Name Principal Sum-

- a. George Mutuma Kshs. 225,000
 - b. Simon Musili Kshs. 127,500
 - c. Kevin Odala Kshs. 127,500
 - d. Sylvester Ouma Okoli Kshs. 170,000
3. The Honourable Court also ordered that interest on the amount claimed at court rate from the date of filing the suit plus costs of the suit amounting to Kshs 100,000/=. That on or around 20th August 2025, the Applicant/Judgment Debtor instructed its advocates to engage the Respondent/Decree Holder with a proposal to settle the decretal sum and interest thereof in six (6) equal monthly installments to be paid on or before the fifteenth (15th) day of every month until payment in full. That the said proposal for settlement was declined and rejected by the Respondent/Decree Holder and the applicant/Judgment Debtor was notified that the officer handling the matter was out of Nairobi and as soon as he resumed the decree would be processed and served accordingly. That on 15th September 2025, the Respondent/Decree Holder through Bemac Auctioneers proclaimed the Applicant's/Judgment Debtor's tools of trade namely: assorted ladies' clothes, assorted men's clothes, assorted children's clothes, clothe hangers and mannequins, handbags, assorted ladies' shoes, assorted men's shoes, assorted children's shoes, generators, computers, music system, office desks and chairs and jewelry. The proclamation of tools of trade and or stock of trade as listed in the proclamation notice dated 15th September 2025 describes conditions of the assets as fair yet they are new items with fixed prices which have been undervalued and the current stock within the Applicant's/Judgment Debtor's premises is worth approximately Kenya Shillings Twelve Million (Kshs 12,000,000/=). That due to the aforesaid illegal and unlawful actions by the aforesaid Bemac Auctioneers, the Applicant's/Judgment Debtor's business operations have been unduly disrupted and adversely affected. The proclamation of tools of trade has also exposed the Applicant's/Judgment Debtor's to irreparable damage of insolvency as it will be unable to sustain its operations and/or generate any or sufficient revenue to honour its obligations to suppliers and creditors. That on 23rd September 2025 upon lapse of the seven (7) days' notice given in the proclamation, the Applicant/Judgment Debtor stands to suffer substantial loss since there is an imminent risk of its tools and implements necessary for its trade and operations being attached, sold or otherwise disposed off by way of public auction. That Applicant/Judgment Debtor is unable to pay the decretal sum in lump sum due to hardship, but is willing and remains committed to settle by way of six (6) monthly installments paid on or before the fifteenth (15th) day of every month until payment in full. That the said proposal for settlement was declined and rejected by the Respondent/Decree Holder and the Applicant/Judgment Debtor was notified that the officer handling the matter was out of Nairobi and as soon as he resumed the decree would be processed and served accordingly. That the Applicant/Judgment Debtor is acting in good faith by proposing a structured payment plan as a sign of goodwill and the Respondent/Decree Holder is not likely to suffer any prejudice. That the Applicant/Judgment Debtor is ready and willing to offer security for costs pending hearing and determination of this application.



4. The application was supported by an undated affidavit of the Human Resource (HR) manager of the Applicant/Judgment Debtor Harun Maina Nguru.
5. The application was opposed by the judgment holder union through a replying affidavit sworn on 3rd October 2025 by Mike O. Oranga, who described himself as the National Organising Secretary of the union/claimant.
6. The application was canvassed by way of written submissions. both parties filed.

Decision

7. Rule 6(1) of the Auctioneer Rules provide for the taking of inventory by the auctioneer as follows: ' 6.An auctioneer shall keep a register of all warrants and letters of instruction passed to him by a client, and shall record in it—'(f)an itemised inventory of the property to be sold showing the value to be placed on each lot;”
8. The auctioneer in the instant case, as per the grounds of the application, on the 15th September 2025, proclaimed against the judgment debtor. The judgment debtor is a clothing store for sale of clothing for all people, shoes and handbags. The auctioneer proclaimed everything in the store, including the mannequins, generators, computers, music systems, office desks, and jewelry. The applicant submits all the above are tools of trade envisaged under section 44(1)I of the *Civil Procedure Act* to wit- ‘All property belonging to a judgment debtor, including property over which or over the profits of which he has a disposing power which he may exercise for his own benefit, whether that property is held in his name or in the name of another but on his behalf, shall be liable to attachment and sale in execution of a decree: Provided that the following shall not be liable to attachment or sale—ii-the tools and implements of a person necessary for the performance by him of his trade or profession;”
9. The term inventory is defined under the Black's Law Dictionary. A Garner (10th Ed) as a detailed list of assets; Raw materials or goods in stock. Applying the decision to the judgment debtor, the court concludes that out of the goods attached, only the mannequins, music system, computers, and office desks amounted to tools of trade. See Jonathan Wepukhuli t/a Gati cleaning agency limited v Julius Odhiambo Oduor (2019)e KLR . Stock in trade proclaimed was not tools of trade but Goods held for resale in the ordinary course of business and could be proclaimed by the auctioneer. The court finds the application as framed left the court to conclude the proclaimed goods were inventory belonging to the judgment debtor and could be proclaimed. It is not for the court to discern what item in the inventory was a tool of trade without the applicant pleading so. the applicant pleaded all proclaimed items were tools of trade which the court found was not true.
10. The applicant relied on Order 22 and Rule 22 of the Civil Procedure Rules in asking for a stay of execution to prevent the attachment for sale of proclaimed goods. The applicant is in the business of selling the stock proclaimed. The court agreed it would be crippled if the goods are attached and sold, and further, the other workers would be rendered jobless. That is a sufficient cause to issue the stay of the execution. The auctioneer would still be entitled to his fees payable by the judgment debtor, the court having found that stock in trade was inventory liable for attachment to pay the judgment debt.
11. The applicant further approached the court for settlement of the debt in 6 instalments, invoking the exercise of the judicial discretion of the court under Order 21 rule 12 of the Civil Procedure Rules to wit- ‘Where and in so far as a decree is for the payment of money, the court may for any sufficient reason at the time of passing the decree order that payment of the amount decreed shall be postponed or shall be made by instalments, with or without interest, notwithstanding anything contained in the contract under which the money is payable.(2)After passing of any such judgment or decree, the court may



on the application of the judgment-debtor and with the consent of the decree-holder or without the consent of the decree-holder for sufficient cause shown, order that the payment of the amount decreed be postponed or be made by instalments on such terms as to the payment of interest, the attachment of the property of the judgment-debtor or the taking of security from him, or otherwise, as it thinks fit.”

12. The application to settle the debt by way of installments is opposed by the respondent as per replying affidavit of Mike Oranga dated 3rd October 2025 on the basis that the judgment debtor had delayed the conclusion of the case as the judgment was set aside and re-opened for hearing at the behest of the applicant, that there was fear of insolvency as the applicant had closed 5 of its branches and even the 6th branch at Tom Mboya street where the proclamation was done the business had 4 floors but currently only 3 floors causing fear of insolvency. That the applicant had not proved they are unable to pay the debt nor produced bank accounts. That they peg the worth of their stock at Kshs. 12 million against the debt of Kshs. 1,851,431. That no security had been provided in the event of default.
13. The court in *Lavington Security Limited v Nairobi City Water & Sewerage Co.Ltd* (2014)e KLR grappled with the question whether it was bound by the installment proposed as follows- ‘3] Should I accept one or other of the proposed amount of instalments by parties or should the Court order a separate amount of instalment altogether? In strict sense, the Court is not bound by the proposals made by the parties although such proposals are critical in determining an application to pay by instalments. Of great significance in application of this nature are; the circumstances of the case; the conduct of the parties; the willingness and bona fides of the Applicant to pay a fair proportion of the debt; and of course, that the application is made without undue delay. The conduct of the parties, especially the Defendant stretches back from the performance of the contract, after default, on commencement of and during the entire proceedings. No doubt the Applicant defaulted and that sowed this suit but it did not deny the debt; it admitted it formally and judgment was accordingly entered on that admission. There, the conduct of the Applicant becomes an important factor to consider. It was positive.” In the instant case, the respondent did not propose an alternative to the 6 months, but the court noted that the parties in out-of-court talks had proposed 2 installments, which the court finds may not be viable, taking into account the case of the applicant. The decretal amount is 1,851,431. Taking into account that the respondent in response did not propose alternative installments, I find no basis to interfere with the proposal to settle the decretal sum in 6 instalments as sought. The applicant has proved willingness and bona fides to pay a fair proportion of the decretal sum by way of reasonable instalments, taking into account the need to ensure the business is not crippled.
14. In the upshot, I allow the application as follows-
 - a. That the Honourable Court is pleased to Order that the Applicant/Judgment Debtor be and is hereby permitted and ordered to defray/pay the decretal sum plus interest and costs by way of six (6) monthly installments paid on or before the fifteenth (15th) day of every month from the date of the order until payment in full. The first instalment is due on 15th February 2026.
 - b. That the Honourable Court is pleased to restrain the Respondent/Decree Holder from levying execution herein for as long as the Applicant/Judgment Debtor pays the proposed monthly installments.
 - c. That the costs of this Application to the respondent.
15. Having allowed payment by instalments, I should be clear that execution will only issue in the event of default by the Applicant on any one instalment on its due date, and that settles the question of stay of execution.
16. It is so Ordered.



DATED, SIGNED, AND DELIVERED IN OPEN COURT AT NAIROBI THIS 23RD DAY OF JANUARY, 2026.

J. W. KELL,

JUDGE.

IN THE PRESENCE OF:

Court Assistant: Otieno

Claimant – Manene h/b Nyumba

Applicant /Respondent – Marusei h/b Sang

