



Mwenda Mwinzi & Associates Advocates v Ndiku (Miscellaneous Application E097 of 2024) [2026] KEELRC 276 (KLR) (30 January 2026) (Ruling)

Neutral citation: [2026] KEELRC 276 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS APPLICATION E097 OF 2024**

**AK NZEI, J
JANUARY 30, 2026**

BETWEEN
MWENDA MWINZI & ASSOCIATES ADVOCATES APPLICANT
AND
JOSEPHAT MUTUKU NDIKU RESPONDENT

RULING

1. According to the Court's record herein, this Court's Deputy Registrar, sitting as a Taxing Officer, delivered a Ruling on 17th October, 2024, taxing the Advocate/Respondent's Advocate/Client Bill of Costs dated 28th February, 2024 in the sum of Kshs.274,100/=. A certificate of costs duly issued on 5th November, 2024.
2. Subsequently, the Advocate/Respondent filed a Chamber Summons application dated 7th November, 2024 seeking an order that Judgment be entered for the Advocate in the said taxed sum of Kshs.274,100/=:, plus interest at Court rates. The application, being unopposed, was allowed on 27th March, 2025, with Counsel for the Client/Applicant conceding. A 30 days' stay of execution was granted on oral application by Counsel for the Client/Applicant.
3. A Garnishee Application dated 20th May, 2025 and filed by the Advocate/Applicant was subsequently withdrawn on 9th July, 2025.
4. The application now before me for determination is the Client/Applicant's Notice of Motion dated 14th July, 2025. The Applicant seeks the following Orders:-
 - a. Spent.
 - b. Spent.
 - c. Spent.



- d. That the Court be pleased to grant such further and/or consequential orders as may be necessary for the ends of justice, including the execution and satisfaction of the outstanding decretal sum of Kshs.272,298/=.
 - e. That the Applicant be allowed to satisfy the decretal amount of Kshs.274,100/= in monthly instalments of Kshs.10,000/= until payment in full.
 - f. That costs of the application be provided for.
5. The application sets out on its face the grounds upon which it is brought, and is anchored on the Applicant's supporting affidavit sworn on 14th July, 2025. It is deponed in the said supporting affidavit, inter-alia:-
- a. that the Applicant was granted 30 days' stay of execution which lapsed, and that execution is looming.
 - b. that in the event execution issues, the Applicant will be heavily prejudiced as he has no financial prowess to pay off the entire decretal sum.
 - c. that the Applicant is presently unemployed, lacks steady source of income, and is therefore unable to raise the decretal sum within the stipulated period.
6. The application is opposed vide a replying affidavit of Michael Mwololo Nguma Advocate sworn on 24th July, 2025. It is deponed in the said replying affidavit that the proposed instalments of Kshs.10,000/= are not only unreasonable and inadequate, but an indication of bad faith, as it would take 27 months to settle the decretal sum of Kshs.274,100/=.
7. It is also stated in the said replying affidavit:-
- a. that the Applicant is a man of great means who in the recent past has been purchasing prime properties across the country for substantial amounts of money.
 - b. that the Client/Applicant has not demonstrated any sufficient reason as to why he has not settled the decretal sum.
 - c. that the application is meant to circumvent or delay payment of the decretal sum and to violate the Respondent's right to enjoy the fruits of the Judgment.
8. The Client/Applicant filed a further affidavit sworn by himself on 22nd September, 2025 and deponed inter-alia, that the properties referred to in the replying affidavit are part of the subject matter in a Matrimonial Cause, being Nairobi High Court (Family Division) Cause No. E052 of 2023; and annexed a print out from the said Court's Case Tracking System (CTS) on activities regarding the said case.
9. The application was argued orally in Court on 9th October, 2025 pursuant to the Court's directions in that regard.
10. It is worthy noting that the Orders sought by the Client/Applicant are discretionary in nature, and that this Court's discretion must always be exercised Judiciously. The Client/Applicant has not placed any material before this Court to demonstrate inability to settle the decretal sum in lump sum, or by reasonable instalments. A holder of a valid Court decree is by law entitled to execute the same in any of the various ways provided for in the Civil Procedure Rules. Section 13 of the [Employment and labour Relations Court Act](#) provides that decrees and orders of this Court are to be executed pursuant to the provisions of the Civil Procedure Rules.



11. The Applicant is not shown to have made any attempt to settle the Advocate's taxed costs since 17th October, 2024 when the Taxing Officer's Ruling was delivered. The Client/Applicant's Notice of Motion dated 14th July, 2025 is, however, allowed in the following terms:-
- a. The decretal sum of Kshs.274,100/= shall be paid by the Client/Applicant to the Advocate/Respondent in three (3) equal instalments as follows:-
 - i. Kshs.91,367/= on or before 15th February, 2026.
 - ii. Kshs.91,367/= on or before 15th March, 2026.
 - iii. Kshs.91,367/= on or before 15th April, 2026.
 - b. In default of any one instalment, execution to issue for the entire balance.
12. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS

30TH DAY OF JANUARY 2026

AGNES KITIKU NZEI

JUDGE

ORDER

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

Mr. Nguma for the Advocate/Respondent

Miss Mule for the Client/Applicant

