

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS  
COURT AT NAIROBI  
CAUSE NO. E714 OF 2023  
MARGARET NYABOKE MAGETO  
CLAIMANT  
v  
KENYA REVENUE AUTHORITY  
RESPONDENT**

**RULING NO. 2**

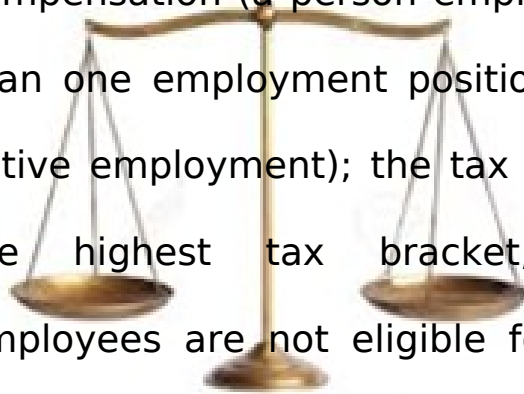
1. The Court delivered a judgment in favour of Margaret Nyaboke Mageto (the Claimant) on 3 April 2025. The Court awarded the Claimant compensation of Kshs 5,930,000/-.
2. The Claimant thereafter had her costs taxed at Kshs 456,491/-.
3. The Kenya Revenue Authority settled the decree and costs. In its view fully. The Claimant did not agree and asserted that there was a balance of Kshs 848, 891.- made up of outstanding decretal amount of Kshs 392,400/- and costs of Kshs 456,491/-.
4. On or around 8 October 2025, the Claimant took out a Notice to Show Cause against a

Mr Josphat Omondi, Deputy Commissioner,  
Finance Division, Kenya Revenue Authority.

5. The Respondent filed an affidavit in response to the Notice to Show Cause on 21 November 2025.
6. In the affidavit, it was deponed that the decretal sum of Kshs 5,930,000/- was subjected to a tax within the 33% tax bracket and payments made leaving no outstanding balance and that the costs of Kshs 456,491/- had been paid on 28 October 2025.
7. The Claimant filed an affidavit in reply on 25 November 2025 attesting that the flat rate of 45% used by the Respondent was erroneous and not in line with the Income Tax Act; the applicable rate was the Standard Marginal Tax Rate (tax bands); the costs were underpaid by Kshs 0.002/- and that there was a balance of Kshs 387,900/-.

8. The Court gave directions on the Notice to Show Cause on 8 December 2025 and 9 December 2025.
9. The Respondent filed a supplementary affidavit on 9 December 2025 deponing that the Claimant had been considered as a secondary employee for purposes of computing the tax due on the awarded compensation (a person employed in more than one employment position and not in active employment); the tax was made at the highest tax bracket; secondary employees are not eligible for tax reliefs and exemptions and that it was lawful to subject the compensation to tax at 35%.

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NAIROBI

10. The Court has considered the Notice to Show Cause and the affidavits and makes the following determinations.
11. One, the Respondent did not contest whether the person and office against whom the Notice to Show Cause was a

proper party or office or the Accounting/Authorised Officer for purposes of execution.

12. Two, the Claimant did not deny that the taxed costs had been settled.

13. The disputed amount is therefore Kshs 392,400/- and not Kshs 848,891/-.

14. Three, none of the parties referred the Court to or cited the relevant provisions of the applicable law on tax bands or rates of tax for purposes of the instant proceedings.

15. It is apparent to the Court that the parties were surreptitiously drawing it to make certain findings, application and interpretation of the tax legal framework without material disclosure, for example, why would the Respondent refer to the term *secondary employee* without disclosing the law the concept is hinged on?

16. Four, it was up to the Respondent to explain and justify the deductions it had made to the compensation but it did not.

17. The Court finds that a case has been made for the Notice to Show Cause.

18. The delivery of this Ruling has been brought forward with notice to the parties.

19. The Court orders Mr Josphat Omondi, Deputy Commissioner, Finance Division, Kenya Revenue Authority to appear in Court on a date to be agreed to show cause.

20. The Claimant to have costs of the Notice to Show Cause.



**Delivered virtually, dated and signed in Nairobi on this 27<sup>th</sup> day of January 2026.**

**Radido Stephen, MCI Arb**  
**Judge**

**Appearances**

For Claimant

SMS Advocates

LLP

For Respondent

Andambi

Chabala

Advocate

Court Assistant

Wangu

**EMPLOYMENT AND LABOUR RELATIONS COURT**



**NAIROBI**