

**IN THE COURT OF APPEAL
AT NAIROBI**

(CORAM: TUIYOTT, JA (IN CHAMBERS))

CIVIL APPEAL (APPLICATION) NO. NAI E206 OF

2022 BETWEEN

ANTHONY KIBANDI WATUKU.....APPLICANT

AND

**INDUSTRIAL & COMMERCIAL DEVELOPMENT
CORPORATION.....RESPONDENT**

*(Being an application for settlement of terms arising from the Judgment of this Court delivered on 9th May 2025 in an appeal arising from the Judgment and Decree of the Employment and Labour Relations Court at Nairobi (**Nduma Nderi, J**). dated 20th December 2021*

in

ELRC Petition No. 128 of 2018)

RULING

[1] The final order of the judgment of this Court of 9th May 2025 reads as follows:

***“In the end, save for the success in the appellant proving that he was entitled to enhanced salary from January 2017 to May 2017, when he had a separation with the Corporation, the appeal has no merit. The difference between the salary paid to the appellant and the enhanced salary for this period shall be worked out by the Corporation. The difference shall attract interest at court rates from the date when the petition was filed until payment in full or on the date it shall be offset from any amounts owed to the respondent by the appellant.*”**

Save for this very limited success, the appeal fails. Each party to bear its own costs."

[2] There is a divergence between the two parties as to how the decretal amount should be worked out and this matter is brought to me for settlement of terms, a jurisdiction under Rule 36(2)(d) of the Court of Appeal Rules.

[3] As I understand it, the appellant raises two issues; that respondent sought to compute figures which have obvious arithmetic mistakes and that the respondent is holding a collateral for the outstanding loan amount of Kshs.924,718.55 and at the same time seeking to effect the Court award for the outstanding sum. The appellant asserts that to insist on such course would cause the appellant to suffer double jeopardy by losing the court award and at the same time, the property.

[4] The appellant then submits:

"The appellant believes that if the Court was aware of this fact before the writing of judgment, the wording of paragraph 70 of the judgment delivered on 9th May 2025, would have been different. Otherwise, it appears the resonant was given an open cheque to do whatever he feels like. Therefore, this forms the basis for coming for settlement of terms before this honourable court."

[5] Having given this matter my own consideration, I earnestly beseech the parties herein to attempt an amicable

agreement

as to how to treat the appellant's obligation (if any) vis-à-vis the security held (if any), with the Registrar of the Court facilitating such conversation.

[6] This matter shall be mentioned before the Registrar of this Court within fourteen (14) days of this Order. It be referred back to this Court for further orders in the event of deadlock.

Dated and delivered at Nairobi this 30th day of January 2026.

F. TUIYOTT

.....
JUDGE OF APPEAL

*I certify that this is
a true copy of the
original.*

Signed

DEPUTY REGISTRAR.