

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR  
RELATIONS COURT AT NAKURU  
APPEAL NUMBER E003 OF 2023**

**BETWEEN**

JACKSON KIPKOECH TOGOM ..... APPELLANT

**AND**

RADAR LIMITED .....RESPONDENT

**RULING**

1. Judgment was delivered in favour of the Appellant, in the total sum of Kshs. 386,319.68.
2. The Respondent has paid through monthly instalments, a sum of Kshs. 333,324. 84.
3. A dispute has arisen on an instalment of Kshs. 55,554.14, which was forwarded to the Appellant by the Respondent, through a cheque No. 017012, dated 10th January 2025.
4. The Respondent states that the Appellant refused to bank the cheque, alleging that it had been flagged. No reason was given for not banking the cheque, beyond alleging that it had been flagged.

5. The Appellant states that the cheque was dishonoured at the instance of the Respondent, and the Respondent subsequently declined to replace the dishonoured cheque.
6. On the second aspect of the dispute, the Respondent submits that the decretal sum was subject to PAYE tax. The Judgment specifically stated award was subject to statutory deductions.
7. The Appellant concedes that the law requires PAYE tax is made on awards of the Court, but submits that the award of the Court has been paid staggeringly, thus blurring the PAYE tax deductible.
8. The Appellant instructed Sanjomu Auctioneers to attach and sell the Respondent's motor vehicles, holding that the decree has not been settled. The balance sought as per warrants of attachment given on 19th August 2025, was Kshs. 112,954.68.
9. This prompted the Respondent to approach the Court through an application dated 30th September 2025, asking the Court to stay execution of the decree, pending hearing and determination of the application.
10. Temporary orders of stay of execution were made on 30th September 2025.
11. Parties agreed that the application is considered and determined on the strength of their submissions, which they confirmed to have filed and

exchanged, at the last mention before the Court, on 22nd November 2025.

**The Court Finds: -**

12. There is legal consensus, through judicial authorities, such as **Kioko Joseph [suing as the legal representative of the estate of Joseph Kilinda ] v. Bamburi Cement Limited [2017] e-KLR**; and, **Andrew Mukite Saisi v. Tracker Group of Companies [2020] e-KLR**, that awards of the Court are subject to statutory deductions.
13. The Court of Appeal relied on Sections 19, 49 of the Employment Act; Section 37 of the Income Tax Act; as well as the KRA Employers' Guide on PAYE, in underscoring the obligation of Employers to deduct, and remit statutory deductions.
14. The Respondent however does not clarify what was deducted and remitted to any of the statutory bodies. It only discloses that the award was Kshs. 386,319.68, and that it has paid Kshs. 333,324.84 [as per Certificate of Urgency] or Kshs. 330,768 [as per the Respondent's submissions]. Whatever the amount paid, it was paid staggeringly, and it is unclear what PAYE tax was deducted. Was it from the occasional instalments of Kshs. 55, 551? What was deducted, and at what interval? When was it remitted to the relevant statutory body? Without clarity on these questions, the Court has no ground to conclude that the Respondent has satisfied the decree, warranting grant of the orders sought.

15. It is not clear to the Court why the cheque for the sum of Kshs. 55,124 was not cashed. It is however not disputed that the cheque has not gone through the Appellant's bank, as was intended.
16. Why did the Respondent not replace the cheque, or pay cash at the Appellant's Advocates' chambers?
17. The Respondent appears to have contributed to a large extent, in creation of this secondary and needless dispute, first by opting to pay the decretal sum staggeringly; by failure to replace the failed cheque payment; and by alleging to have made and remitted unspecified statutory deductions on the award.

**IT IS ORDERED: -**

- a. *The orders of temporary stay of execution made in favour of the Respondent are extended for a period of 30 days from the date of this ruling.*
- b. *Within the 30 days, the Respondent shall:*
  - [i] make a cash payment to the Appellant's Advocates, for the sum of Kshs. 55, 124.*

***[ii] supply the Appellant with evidence of statutory deductions made and remitted to the relevant statutory bodies, from the award of the Court.***

***[iii] In default execution to proceed.***

**c. The Respondent to meet the costs of the auctioneers.**

Dated, signed and delivered electronically at Nakuru, under Rule 68 [5] of the E&LRC [Procedure] Rules, 2024, this 30th day of January 2026.

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James Rika  
Judge

