



V Chokaa & Co Advocates v Roy Hauliers (Miscellaneous Cause E236 of 2024) [2026] KEELRC 101 (KLR) (26 January 2026) (Ruling)

Neutral citation: [2026] KEELRC 101 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS CAUSE E236 OF 2024
S RADIDO, J
JANUARY 26, 2026
IN THE MATTER OF THE ADVOCATES ACT, CAP 16, LAWS OF KENYA
AND
IN THE MATTER OF THE TAXATION OF COSTS BETWEEN ADVOCATE AND CLIENT
AND
IN THE MATTER OF NAIROBI MAGISTRATES ELRC CAUSE NO. 165 OF 2019
BETWEEN
V CHOKAA & CO ADVOCATES APPLICANT
AND
ROY HAULIERS RESPONDENT

RULING

1. For determination is a Motion dated 17 June 2025 by Roy Hauliers (the Respondent) seeking orders:
 - i. ...
 - ii. That the Honourable Justice Stephen Radido do recuse himself from presiding over this matter and all related files, including Miscellaneous Application E227/2024, E228/2024, E229/2024, E230/2024, E231/2024, E232/2024, E234/2024, E235/2024, E236/2024, E237/2024, E238/2024, E239/2024, E240/2024 and E241/2024.
 - iii. That this matter and all related files be placed before the Presiding Judge for reallocation to another judge of competent jurisdiction for further directions and hearing.
 - iv. That the costs of this application be provided for.



2. The grounds in support of the Motion were that the Respondent had a reasonable apprehension of bias on the part of the Judge because of the language he had used in a Ruling delivered on 10 June 2025; the Judge's hearing of a garnishee application reinforced the perception of bias; the Respondent intended to appeal the Ruling of 10 June 2025; the Judge dismissed the Respondent's arguments on lack of jurisdiction without due consideration and that the continued participation of the judge in the matters would erode public confidence in the judiciary.
3. V. Chokaa Advocate (the advocate) filed a replying affidavit opposing the Motion on 19 June 2025.
4. The advocate deponed in the affidavit that the words speaking from both sides of its mouth used in the Ruling could not be construed to show evidence of bias and merely meant that a party had taken irreconcilable positions on the same matter.
5. The Respondent filed its submissions on 16 September 2025, wherein it submitted that the Judge had used intemperate language by accusing it of speaking from both sides of its mouth and employing legal technicalities to avoid fulfilling legal obligations.
6. According to the Respondent, the language impeached its integrity.
7. The Respondent cited *Jasbir Singh Rai & 3 Ors v Tarlochan Singh Rai & 4 Ors* (2013) eKLR and *Porter v Magill* (2002) 2 AC 357.
8. The Respondent further submitted that the continued involvement of the Judge in consideration of the dispute would negatively impact its right to a fair hearing guaranteed by Article 50(1) of [*the Constitution*](#).
9. The advocate filed his submissions on 22 October 2025, reiterating that the language used in the Ruling did not exhibit any bias but simply meant that the Respondent had adopted inconsistent or contradictory positions in arguments presented before the Court.
10. The advocate cited *Metropolitan Properties v Lannon* (1968) 3 All ER and *Davidson v Scottish Ministers* (2004) UKHL 34.
11. The Court has considered the Motion, affidavits and submissions.
12. The test for recusal of a judge from hearing a dispute is an objective test. It is seen from the prism of a reasonable and informed person. No actual bias is required but the Court must be minded of public perception of fairness.
13. The Supreme Court addressed the test in which it stated:

it is evident that the circumstances calling for recusal, for a Judge, are by no means cast in stone. Perception of fairness, of conviction, of moral authority to hear the matter, is the proper test of whether or not the non-participation of the judicial officer is called for. The object in view, in the recusal of a judicial officer, is that justice as between the parties be uncompromised; that the due process of law be realized, and be seen to have had its role; that the profile of the rule of law in the matter in question, be seen to have remained uncompromised.
14. In *Dobbs v Trios Bank NV* (2005) EWCA 468, the Court stated: But it is important for a Judge to resist the temptation to recuse himself simply because it would be more comfortable to do so. The reason is this. If Judges were to recuse themselves whenever a litigant – whether it be a represented litigant or a litigant in person – criticised them (which sometimes happens not infrequently) we would soon reach the position in which litigants were able to select Judges to hear their cases simply by criticizing all the



Judges that they did not want to hear their cases. It would be easy for a litigant to produce a situation in which a Judge felt obliged to recuse himself simply because he had been criticized – whether that criticism was justified or not. That would apply, not only to the individual Judge, but to all Judges in this court; if the criticism is indeed that there is no Judge of this court who can give Mr. Dobbs a fair hearing because he is criticizing the system generally. Mr. Dobbs’ appeal could never be heard.

15. Having set out the law, the question arises, what was the context of the language the Respondent asserts was intemperate?
16. The Court will quote the relevant paragraphs:
 10. One, the Respondent, in its wisdom, moved this Court through a Summons (Reference) on 15 October 2024 seeking the setting aside of a taxation of the advocate/client fees.
 11. Then, the Respondent did not suggest that the Court did not have jurisdiction over the Reference it is now asserting that the Court did not have jurisdiction.
 12. The Respondent is clearly speaking from both sides of its mouth.
.....
 17. From the manner the Respondent has been filing application after application, with some of them going before different Courts, it may be argued that the Respondent is using legal technicalities to avoid fulfilling or meeting its legal obligations as determined by the Court.
17. Would a reasonable and fair-minded person with the context as set herein presume apparent bias on the part of the Court? The answer is obviously no.
18. The Respondent has filed numerous applications. Some of the applications are filed even before the previous applications have been determined. This can only lead to confusion on the record. The Respondent may need to relook at its legal strategies and tactics in advancing its case.
19. This Ruling could not be delivered as earlier scheduled because of intervening applications. The delivery today has been made with notice to the parties.

Orders

20. The Motion dated 17 June 2025 is found without merit and is dismissed with costs to the advocate (applicant).

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 26TH DAY OF JANUARY 2026.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For applicant V. Chokaa & Co. Advocates

For Respondent Waruiru, Karuku & Mwangale Advocates

Court Assistant Wangu

