



REPUBLIC OF KENYA



KENYA LAW
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**Waweru v Triple Edge Media Limited (Cause E835 of 2021)
[2026] KEELRC 98 (KLR) (23 January 2026) (Ruling)**

Neutral citation: [2026] KEELRC 98 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E835 OF 2021
AK NZEI, J
JANUARY 23, 2026**

BETWEEN

MAURICE MWANGI WAWERU CLAIMANT

AND

TRIPLE EDGE MEDIA LIMITED RESPONDENT

RULING

1. The application before me for determination is the Respondent's Notice of Motion dated 7th October, 2024 and expressed to be brought under Sections 13, 16 and 20(1) of the *Employment and Labour Relations Court Act*, Sections 1A, 1B, 3 & 3A of the *Civil Procedure Act*, and Order 10 Rule 11 of the Civil Procedure Rules. Other than the prayers on stay of execution of this Court's decree which have since been spent, the Respondent seeks the following Orders:-
 - a. That the Court be pleased to set aside the Judgment dated 14th March, 2024 and the decree dated 19th September, 2024 respectively, and all consequential orders and actions as against the Respondent/Applicant.
 - b. That the Court be pleased to set aside warrants of attachment and proclamation notice issued pursuant to the Judgment dated 14th March, 2024 and decree dated 19th September, 2024 respectively.
 - c. That the Court be pleased to order and direct the plaintiff to effect proper service upon the Respondent through the Counsel on record.
 - d. That the Court be pleased to grant leave to the Respondent to file its (sic) and trial bundle.
2. The application sets out on its face the grounds upon which it is brought, and is based on the annexed supporting affidavit of Josylyn Chebet Juma sworn on 7th October, 2024. It is deponed in the said supporting affidavit:-



- a. that the deponent (a director of the Respondent/Applicant Company) learnt of the suit herein on 24th September, 2024 when she was notified of the warrants of attachment and decree via WhatsApp messaging.
 - b. that the Applicant noticed that the case was the same matter on which it had received a demand letter, and responded to the same.
 - c. that the Respondent was not served either summons to enter appearance or a memorandum of claim.
 - d. that the Respondent is desirous of defending the suit, and pleads for a fair opportunity to do so.
 - e. that the Respondent has a defence which raises triable issues.
 - f. that the Claimant was never terminated, and was offered a contract renewal, which he never accepted; hence the instant suit is inconceivable.
 - g. that the Respondent did not decline to pay the Claimant his arrears, but requested him to hand over all the company equipment and to clear with the company before his arrears could be computed and paid.
 - h. that in his pleadings, the Claimant has admitted holding company equipment as lien for his dues. That the value of the said equipment surpasses the decretal sum herein.
 - i. that the equipment held by the Claimant holds critical data that further crippled functioning of the office, leading to substantial financial loss and failure to deliver on projects, thus exposing the Respondent to law suits by clients with whom it had signed Non-Disclosure Agreements.
3. Documents annexed to the supporting affidavit include a draft statement of response whereby Respondent, inter-alia admits the Claimant's salary arrears.
 4. The application is opposed by the Claimant vide a replying affidavit sworn on 16th October, 2024. It is deponed in the said replying affidavit, inter-alia:-
 - a. that the impugned Judgment and decree is regular, the Respondent having been served with summons and a memorandum of claim and having failed to appear or file appearance; and that the Respondent was at all material times aware of the suit.
 - b. that the Respondent was served with summons to enter appearance, statement of claim and accompanying documents via its email obtained from its letter head, and was subsequently served with Formal Proof Notices and Mention Notices vide the same email address; but neither attended Court nor filed defence.
 - c. that the Respondent was served with a Judgment notice on 13th February, 2024, and was subsequently served with a taxation notice and ruling notice; and that ruling on taxation was delivered on 26th June, 2024.
 - d. that the allegations of non-service are an afterthought, false, frivolous and an abuse of the Court's process.
 - e. that the Respondent/Applicant has not given any reasonable explanation for failing to defend the suit herein, which dragged in Court for over two years, with every Court appearance duly notified to the applicant in advance.



- f. that no reason has been given for setting aside a regular and lawful Judgment, and that the Orders sought, which are discretionary, are not available to a party who is culpable of abusing Court process to obstruct the course of justice.
 - g. that delay in bringing the present application is inordinate and inexcusable.
 - h. that the Respondent admits in paragraph 5 of the Supporting affidavit to having received a demand letter which was served by email at info@tripleedgemedial.co.ke, which means that the email address is not disputed.
 - i. that the draft defence is a mere denial, frivolous and discloses no reasonable defence in law against the claim.
 - j. that the Respondent neglected to pay salaries amounting to Kshs.544,212/= from February 2017 to June 2020, together with other disbursements and terminal dues awarded in the impugned Judgment, and that the present application is intended to delay payment.
5. Documents annexed to the supporting affidavit include; a demand letter dated 21st July, 2021, an affidavit of service sworn on 1st November, 2021 on service of summons and the Claimant's pleadings via email at infor@tripleedgemedial.co.ke, and a forwarding email correspondence of even date sent to the same email address.
 6. Also annexed to the said supporting affidavit are numerous court processes (Case Management Notice, mention notices, hearing notice, Judgment notice, taxation notice, ruling notice, notice of entry of Judgment), affidavits of service and forwarding/covering email correspondences, all sent/served on the Respondent by the Claimant's Advocate on record on various dates at info@tripleedgemedial.co.ke.
 7. I have noted from the documents filed herein that the said email address appears on all documents bearing the Respondent's letter head. Indeed, it is deponed in the supporting affidavit sworn on behalf of the Respondent (by a director of the Respondent) that the Respondent received a demand letter sent to it. The demand letter is shown to have been sent to the said email address. It is not denied that the said email address belongs to the Respondent. The Court was not told how and why the Respondent received one document via its undisputed official email address and failed to receive the rest. I return a finding that the Respondent was duly served with summons, the Claimant's pleadings and other Court processes, and that it was all along aware of the suit herein.
 8. Further, I have noted from the draft defence that the Respondent admits the Claimant's claim for salary arrears. It is also noted that apart from the costs of the suit, the said claim (for salary arrears) is the only relief that this Court (Dr. Jacob Gakeri, J) granted in its Judgment delivered on 14th March, 2024.
 9. Having made the foregoing findings, and having considered written submissions filed on behalf of the parties herein; I find and hold that the Respondent has not demonstrated why this Court's Judgment should be set aside. The Notice of Motion dated 7th October, 2024 is devoid of merit, and is hereby dismissed.
 10. Each party will bear its own costs of the application.
 11. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 23RD 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.

Appearance:

Mr. Kinyanjui for the Claimant/Respondent

Miss Akola for the Respondent/Applicant

