



**Kamwolyo v Kanku Kenya Ltd & another (Miscellaneous Application
E021 of 2023) [2026] KEELRC 322 (KLR) (4 February 2026) (Ruling)**

Neutral citation: [2026] KEELRC 322 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MACHAKOS
MISCELLANEOUS APPLICATION E021 OF 2023**

**SC RUTTO, J
FEBRUARY 4, 2026**

BETWEEN

SYLVESTER KITHOME KAMWOLYO APPLICANT

AND

KANKU KENYA LTD 1ST RESPONDENT

**DIRECTORATE OF OCCUPATIONAL SAFETY AND HEALTH
SERVICES 2ND RESPONDENT**

RULING

1. What comes up for determination before this Court is a Notice of Motion dated 27th June 2025, through which the 1st Respondent/Applicant seeks the following orders:
 - a. That judgment be entered in the sum of Kshs 42,600.00 for the party and party costs taxed on 8/5/2025 together with interest thereon at court rates from 5/6/2025 until payment in full.
 - b. That the certificate of taxation issued on 5/6/2025 be adopted as a judgment of this court, a decree be issued in respect thereof and the 1st Respondent/Applicant be at liberty to execute for the recovery of the same in such manner as decree of this Honourable Court.
 - c. That the Claimant (sic)/Respondent do pay costs of this application.
2. The Application is premised on the grounds set out therein and is supported by the Supporting Affidavit sworn on 27th June 2025 by Victor Ajwang, Advocate on record for the 1st Respondent/Applicant.
3. Mr. Ajwang deposes that the Applicant/Respondent's suit was dismissed with costs awarded to the 1st Respondent/Applicant on 31st May 2024. Thereafter, the 1st Respondent/Applicant filed a Bill



of Costs dated 10th January 2025 for taxation, which was taxed at Kshs. 42,600.00. A Certificate of Taxation was subsequently issued on 5th June 2025.

4. Mr. Ajwang further avers that despite service of the Certificate of Taxation upon the Applicant/Respondent, he has failed, refused and/or neglected to settle the taxed costs. He adds that, to date, the Applicant/Respondent has neither paid the costs nor indicated any intention to do so.
5. According to Mr. Ajwang, the 1st Respondent/Applicant is unable to execute the Certificate of Taxation issued on 5th June 2025 in its current form, as it does not constitute a decree of the Court capable of execution.
6. Despite being granted leave to respond on 31st October 2025, the Applicant/Respondent did not file any response to the Notice of Motion.

Analysis and Determination

7. The record bears that Sylvester Kithome Kamwolyo, the Applicant/Respondent in the instant Motion, moved the Court by way of an application dated 17th July 2023, seeking the adoption of an award made by the Directorate of Occupational Safety and Health Services on 10th March 2023 as a judgment of this Court.
8. The application was subsequently dismissed by the Court on 31st May 2024, with costs awarded to the 1st Respondent/Applicant herein. Thereafter, the 1st Respondent/Applicant herein filed a Party-and-Party Bill of Costs, which was taxed at Kshs. 42,600.00. The 1st Respondent/Applicant now seeks an order adopting the Certificate of Taxation arising from the taxation proceedings as a judgment of this Court.
9. In the absence of any other monetary award in this matter, the costs awarded to the 1st Respondent/Applicant constitute a standalone order capable of enforcement. This is because party-and-party costs are ordinarily incorporated into the Court's final award and form part of the Court's final decree.
10. Accordingly, a party need not move the Court as the 1st Respondent/Applicant has done, in order to have a Certificate of Taxation adopted as a judgment of the Court.
11. In these circumstances, the 1st Respondent/Applicant is at liberty to extract a decree in the normal manner for purposes of enforcement.
12. Accordingly, for the reasons stated above, the Notice of Motion dated 27th June 2025 is declined with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 4TH DAY OF FEBRUARY 2026

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STELLA RUTTO

JUDGE

In the presence of:

Ms. Chumo instructed by Mr. Kirwa for the Applicant/Respondent

No appearance for the 1st Respondent/Applicant

Catherine Court Assistant

ORDER



In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

