



**Winteam International Limited v Bespoke International Limited (Civil Case 395 of 2015)
[2026] KEHC 1473 (KLR) (Commercial and Tax) (12 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1473 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE 395 OF 2015
PM MULWA, J
FEBRUARY 12, 2026**

BETWEEN

WINTEAM INTERNATIONAL LIMITED PLAINTIFF

AND

BESPOKE INTERNATIONAL LIMITED DEFENDANT

RULING

1. Before this Court is the Plaintiff's/Decree-Holder's Notice of Motion dated 2nd February 2024, brought under Sections 1A, 1B and 3A of the *Civil Procedure Act*, Order 51 Rules 1, 3 and 4, and Order 22 Rule 35 of the Civil Procedure Rules. The application seeks, inter alia:
 - i. That the Defendant's directors, namely Laban Kimani, Maurice Kimondo and Everlyne Mukuhi, do appear personally before this Court to be orally examined on oath as to whether the Defendant has any property or means of satisfying the decree; and
 - ii. That in default of compliance, a warrant of arrest do issue against the said directors.
2. The application is premised on a consent judgment entered on 30th July 2018 in the sum of Kshs. 9,300,000/-, which consent was duly adopted as a judgment of the Court. Under the consent, the Defendant undertook to pay Kshs. 1,550,000/- in equal monthly instalments, payable on the last day of each month. It is contended that the Defendant has failed to honour the consent, leaving an outstanding balance of Kshs. 7,150,000/-, thereby denying the Plaintiff the fruits of its judgment.
3. The application is supported by the affidavit of Charles Nyabuti, sworn on behalf of the Decree-Holder.
4. The Defendant opposed the application through a Replying Affidavit sworn by Laban Njau Kimani, a director of the Defendant, in which it is deponed that the Defendant has been in financial distress,



has no sufficient assets to satisfy the decree, and that summoning the directors would be of no practical value.

5. The Decree-Holder filed written submissions urging the Court to allow the application as a lawful execution mechanism under Order 22 Rule 35 of the Civil Procedure Rules.

Analysis and determination

6. Having considered the Motion, responses and submissions, the sole issue that arises for determination is whether the Respondents' Directors should be orally examined on the state of affairs of the Respondent.
7. Order 22 Rule 35 of the Civil Procedure Rules provides that:
 - “where a decree is for payment of money, the decree-holder may apply to the court for an order that –
 - a. The judgment debtor;
 - b. In the case of a corporation, any officer thereof; or
 - c. Any other person, be orally examined as to whether any or what debts are owing to the judgment-debtor, and whether the judgment-debtor has any and what property or means of satisfying the decree, and the court may make an order for the attendance and examination of such judgment debtor or officer, or other person, and for the production of any books or documents.”
8. The statutory provision is intended to facilitate the discovery of assets where execution has not yielded satisfaction of a decree and should be invoked where the applicant establishes a legitimate basis for inquiry.
9. The general principle remains that a successful party is entitled to the fruits of his judgment. The Court will not make an order that unjustifiably deprives a successful litigant of those fruits unless there is just cause.
10. The decree sought to be enforced arises from a consent judgment entered on 30th July 2018 in the sum of Kshs. 9,300,000/-, adopted as a judgment of the Court. There remains an outstanding sum of Kshs 7,500,000/-, which the judgment debtor has failed to pay.
11. Summoning directors for examination under Order 22 rule 35 is a procedural mechanism ancillary to execution and does not, in itself, constitute piercing the corporate veil. The Court notes the guidance in *Devnarayan Enterprises Ltd v Notice & 6 Others* [2024] KEELC 1806 (KLR) that such summonses serve to ascertain the financial position of a judgment-debtor where execution has proved unsuccessful, so as to prevent the decree-holder being left financially frustrated.
12. Order 22 rule 31 permits the issue of a warrant where a person summoned fails to attend without lawful excuse. Such a warrant is coercive and intended to secure compliance with lawful court orders rather than to punish.
13. Having regard to the foregoing, and being satisfied that the Decree-Holder has established a proper basis for the relief sought under Order 22 rule 35, the court makes the following orders:
 - i. Summons shall issue directing Laban Kimani, Maurice Kimondo and Everlyne Mukuhi, the directors of Respondent/judgment Debtor - Bespoke International Limited, to attend court



on a date to be fixed for oral examination on oath as to the business, affairs, property and means of the said respondent for satisfying the decretal sum herein.

- ii. The said directors are further ordered to produce before the court, on the date of examination, all relevant books of account and financial documents relating to the operations and transactions of the Respondent company that are within their possession, custody or control..
- iii. In default of appearance or compliance, a warrant of arrest shall issue against the defaulting director(s).
- iv. Costs of this application shall be borne by the Respondent/ judgment Debtor.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT NAIROBI THIS 12TH DAY OF FEBRUARY 2026.

P.M MULWA

JUDGE

In the presence of:

Mr. Khaseke for Decree Holder/Applicant

Court Assistant: Carlos

