



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL CASE MISC NO. E361 OF 2025

MUNENE CHEGE & CO. ADVOCATES.....APPLICANT/ADVOCATE

-VERSUS-

GILBERT OBARE APONDI.....RESPONDENT/CLIENT

AND

HS LAW ADVOCATES LLP.....GARNISHEE

RULING

1. Before me is a Notice of Motion Application dated 19th December 2025 filed pursuant to **Article 159 (2) (d)** of the Constitution of Kenya, **Sections 1A, 1B** and **3A** of the Civil Procedure Act, **Order 23 Rule 1** and **Order 51 Rule 1** of the Civil Procedure Rules, 2010 craving for the following relief(s)

- i. SPENT**
- ii. SPENT**
- iii. That, the Garnishee be and is hereby ordered to appear in court to show cause why they should not pay the Applicant herein from the decretal award held by them in favour of the Respondent/Client herein.**

- iv. That, the Garnishee Order Nisi herein be and is hereby made absolute for the sum of Kshs. 1,459,767.30/- together with costs against the Garnishee herein to satisfy the Advocate Client costs in favour of the Applicant herein.**
- v. That, this honourable court be pleased to issue any other order as it may deem fit just and appropriate.**
- vi. That, the costs of the application be provided.**

2. The Application is premised on the following grounds;

- i. That, judgement was entered in favour of the Respondent/Client on 11th December 2025, and as against the Garnishee's client Moi High School Kabarak in Nakuru CMELR Cause No. E255 of 2023.*
- ii. That, the Applicant herein had been in conduct of the claim representing the client herein, who was the claimant in the employment cause up until the matter came up for defence hearing, whereby the Claimant sought to change his advocates from the Applicant to the firm of Ndambiri Law Advocates who took up the matter to its conclusion*
- iii. That, at the time the Respondent/Client herein was changing advocates, he failed to settle the advocate's fees and efforts to get him to settle the same have proved futile, hence the instant application before this Honourable Court for the taxation of the advocate-client bill of costs.*
- iv. That, the decretal sum awarded to the Respondent herein is going to be paid to the client through the Garnishee herein, who are the advocates for the judgement debtor and hence its*

imperative that the Applicant's costs be settled by the Garnishee before the rest can be disbursed in the Respondent's favour.

- v. That, however the 30 day stay of execution granted by the trial court has since lapsed, and the garnishee herein who is in conduct of the matter for the judgement debtor in the claim may at any time proceed to get instructions on settlement of the decretal sum in favour of the decree holder, the Respondent herein which would render the enforcement of the orders of this Honourable Court after the hearing of the application for costs brought by the Applicant as the Respondent herein has shown to be a very elusive person.*
- vi. That, it is therefore imperative that this application is certified as urgent and the interim orders sought herein granted ex parte pending the hearing and determination of the application and the main application brought for the bill of costs between the Applicant and the Respondent herein, lest the same be rendered nugatory should execution proceed and settlement is completed.*
- vii. That, it is in the interest of justice that the orders sought to preserve the ends of justice and settle the interest of the Applicant.*

Analysis and Determination

3. I have considered the Pleadings for and against noting that the Respondent never participated in the proceedings while the garnishee

opposed the Application by filing grounds of opposition dated 6th January 2026.

4. Garnishee proceedings are premised on **Order 23** of the Civil Procedure Rules 2010 stipulates as follows on garnishee proceedings:

“-1. A court may, upon the ex parte application of a decree holder, and either before or after an oral examination of the judgment-debtor, and upon affidavit by the decree holder or his advocate stating that a decree has been issued and that it is still unsatisfied and to what amount, and that another person is indebted to the judgment -debtor and is within the jurisdiction, order that all debts (other than the salaries or allowances coming and is within the provisions of Order 22, rule 42 owing from such third persons (hereinafter called the “garnishee”) to the judgment-debtor shall be attached to answer the decree together with the costs of the garnishee proceedings; and by the same or any subsequent order it may be ordered that the garnishee shall Appear before the court to show cause why he should not pay to the decree-holder the debt due from him to the judgment debtor or so much thereof as maybe sufficient to satisfy the decree together with the costs aforesaid”.

5. The Court concurs with the garnishee submissions that;

- i. The Application being incompetent and fatally defective for failure to disclose any legally recognizable debt owed by the Garnishee to the Judgment Debtor, a mandatory jurisdictional requirement under **Order 23** of the Civil Procedure Rules.
- ii. No garnishee proceedings can lie against an Advocate's office or client account, the same being fiduciary trust accounts regulated under **Sections 32-34** of the Advocates Act and the Advocates (Accounts) Rules, and not debts attachable in execution.
- iii. The Application is a direct assault on the fiduciary advocate-client relationship and violates mandatory statutory duties imposed upon Advocates in respect of handling client funds.
- iv. There is no Certificate of Taxation issued under **Section 51(2)** of the Advocates Act, and therefore no liquidated, enforceable or executable sum capable of founding execution proceedings of any nature.
- v. The Applicant's claim is premature, speculative and legally untenable, taxation having not been undertaken and the alleged costs remaining wholly unascertained. The Respondent has never been a client of the Garnishee, and there exists no privity of contract or fiduciary relationship capable of creating any debtor-creditor obligation.
- vi. The proceedings are fatally misdirected, the matter being currently at the appellate stage under the firm of **Ndung'u Gichuhi & Company Advocate** who are not parties to this Application.

- vii. There exists a valid and subsisting stay of execution, and the decretal sum is to be deposited in a joint interest earning account pending appeal, rendering all execution proceedings illegal and void.
 - viii. The originating suit from which this purported garnishee application arises is an Employment and Labour Relations Court (ELRC) matter, and accordingly a taxation of costs ought to have been placed before the relevant ELRC taxing officer, and by any execution proceedings, competent at all, ought to have been fled before the ELRC and not before the High Court this Court therefore lacking jurisdiction
 - ix. The Application is an abuse of court process and a deliberate attempt to bypass the statutory taxation framework by weaponising garnishee proceedings to coerce payment of disputed Advocate-Client fees.
 - x. The Applicant has not demonstrated that the Garnishee is in possession custody or control of any monies belonging to the Judgment-Debtor.
6. The Applicant has not demonstrated that the garnishee has an ongoing relationship with the judgment debtor and the garnishee not only disputes a relationship ongoing with the judgment debtor but dispute the debt for want of a decree contrary to **Order 23 Rule 1** of the Civil Procedure Rules.

7. Advocate's Fees and costs are subject to taxation and often the Client contests the same. In this instance no taxation has occurred, no certificate of taxed costs has been issued and no decree exists.
8. I sadly note the Application to be speculative, presumptuous and premature under the circumstances .
9. I have no hesitation in finding the Application dated 19th December 2025 to be without merit and accordingly dismiss the same with costs awarded to the garnishee.

It is So ordered.

**Signed, Delivered Virtually on Teams platform
On this 16th April 2026**

**Mohochi S.M
JUDGE**