



REPUBLIC OF KENYA



KENYA LAW
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**Nkunda v Equity Premier Land Solutions (Miscellaneous Application
E158 of 2025) [2026] KEHC 6105 (KLR) (8 May 2026) (Ruling)**

Neutral citation: [2026] KEHC 6105 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
MISCELLANEOUS APPLICATION E158 OF 2025**

M THANDE, J

MAY 8, 2026

BETWEEN

COLETTE NKUNDA APPLICANT

AND

EQUITY PREMIER LAND SOLUTIONS RESPONDENT

RULING

1. By an Application date 13.10.25, the Applicant seeks the following orders:
 1. Spent.
 2. That the court be please to lift the corporate veil and granted (sic) to the Applicant herein leave to directly execute her decree in Malindi CMCC No. E123 of 2023 Colette Nkunda v Equity Premier Land Solutions against the directors of Equity Premier Land Solutions in person by way of showing cause in accordance with Order 22 Rule 35 of Th.
 3. That directions be given as to the issuance of Notice to Show Cause against the directors of Equity Premier Land Solutions.
 4. That costs to this application be provided for.
2. The grounds upon which the Application is premised are that judgment was delivered in Malindi CMCC No. E123 of 2023 on 25.1.23 in which she was awarded the sum of Kshs. 4,000,000/= refund of purchase price; Kshs. 135,000/= rent refund; Kshs. 718,375/= refund of furniture and electronics and costs of Kshs. 286,034/=. The decree was extracted and signed on 6.11.23 and only Kshs. 300,000/= has been realized from sale of a motor vehicle. An attempt to attach the Respondent's land was unsuccessful. The Applicant further states that the Respondent's directors are men of means who can pay the decretal sum without any struggle. She asserted that unless the corporate veil is lifted, she be allowed to go after the directors of the Respondent, she will not be able to realize the decretal sum.



3. The Respondent filed no response to the Application.
4. The law is that the corporate veil of a company may only be lifted in exceptional circumstances such as fraud, agency, or abuse of the corporate form.
5. In *Riccatti Business College of East Africa Limited v Kyanzavi Farmers Company Limited* [2016] KECA 763 (KLR), the Court of Appeal stated:

The Court may lift the corporate veil in exercising its inherent jurisdiction to do justice and fairness for the ends of justice. This jurisdiction may be exercised only in special circumstances where the Court finds improper conduct, fraud or when a company is a sham, acting as an agent of the shareholders or evading tax revenues.

6. The reason proffered by the Applicant for seeking the lifting of the Respondent's corporate veil is that she has been unable to fully execute the decree in question since it was issued on 6.11.23. After sale of the Respondent's vehicle, attempts to attach its property has been difficult.
7. The Applicant has not demonstrated the existence of any special circumstances to warrant the lifting of the corporate veil of the Respondent. She has not stated that there has been fraud or improper conduct on the part of the Respondent. She has also not demonstrated efforts made in seeking the properties of the Respondent for attachment. All she stated is that she has been unable to fully execute and wished to proceed against the directors who are men of means. This does not warrant the lifting of the corporate veil of the Respondent to saddle the directors thereof with its debts.
8. Where a company has no assets, the law provides other remedies. This was the holding in *Corporate Insurance Company Limited v Savemax Insurance Brokers Limited* [2002] EA 41 where Ringera, J. (as he then was) stated:

The veil of incorporation is not to be lifted merely because the company has no assets or it is unable to pay its debts and is thus insolvent. In such a situation, the law provides for remedies other than the director of the company being saddled with the debts of the company.

9. Order 22 Rule 35 of the Civil Procedure Rules under which the Application is expressed to be brought, provides for examination of a judgment-debtor as to his property as follows:

Where a decree is for the 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.

10. The holder of a money decree against a corporation may apply to the court for an order that an officer thereof be orally examined on whether the corporation has any property or means of satisfying the decree.



11. The Applicant seeks the issuance of a notice to show cause against the directors of the Respondent. The Applicant has however not indicated what cause, the directors are to show. The Applicant has also not indicated whether he seeks the directors to attend Court as contemplated under Order 22 Rule 35. Further, the said directors have not been identified. The Court does not issue orders at large and this prayer must fail.
12. In the end and in view of the foregoing, this Court finds that the Application dated 13.10.25 lacks merit and the same is dismissed with no order as to costs.

DATED, SIGNED AND DELIVERED IN MALINDI THIS 8TH DAY OF MAY 2026

M. THANDE

JUDGE

