



**Tea Warehouse Ltd v Khaemba; Nesbitt & 6 others (Proposed Respondents)  
(Appeal E074 of 2022) [2025] KEELRC 218 (KLR) (31 January 2025) (Ruling)**

Neutral citation: [2025] KEELRC 218 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
APPEAL E074 OF 2022  
K OCHARO, J  
JANUARY 31, 2025**

**BETWEEN**

**TEA WAREHOUSE LTD ..... APPELLANT**

**AND**

**TITUS WABWILE KHAEMBA ..... RESPONDENT**

**AND**

**ERIC NIGEL NESBITT ..... PROPOSED RESPONDENT**

**GEORGE PATRICK NESBITT ..... PROPOSED RESPONDENT**

**SIDNEY JAMES NESBITT ..... PROPOSED RESPONDENT**

**MARY ROYCE NESBITT ..... PROPOSED RESPONDENT**

**ANGELA SUSAN NESBITT ..... PROPOSED RESPONDENT**

**NESCLAY LIMITED ..... PROPOSED RESPONDENT**

**C. STEINWEG BRIDGE KENYA LIMITED ..... PROPOSED RESPONDENT**

**RULING**

1. By a Notice of Motion application dated 15<sup>th</sup> January 2025 the Respondent/Judgment Creditor seeks the following orders: -
  - a. That this Honourable Court be pleased to enjoin Eric Nigel Nesbitt, George Patrick Nesbitt, Sidney James Nesbitt, Mary Royce Nesbitt, Angela Susan Nesbitt, Nicholas Alexander Nesbit, Nesclay Limited and C. Steinweg bridge Ltd.
  - b. That this Honourable Court does issue summons compelling the 2<sup>nd</sup> to 9<sup>th</sup> Respondents to appear in Court for examination regarding the Judgment Debtor’s assets, property or financial



means to satisfy the outstanding decretal sum of KShs. 360,000 together with accrued interest of KShs. 100,800 totalling Kshs. 460,800/- as at 15<sup>th</sup> January 2025 in ELRC No. 74 of 2022 (Mombasa Tea Warehouse Ltd -vs- Titus Wambwile Khaemba.

- c. That this Honourable Court does compel the 2<sup>nd</sup> to 9<sup>th</sup> Respondents as Directors and/or shareholders of the Judgment Debtor, to produce all relevant documents, including but not limited to books of accounts, financial statements, contracts and operational records of the Judgment Debtor, exhibiting the affairs of the Judgment Debtor relating to the current operations of the Judgment Debtor so as demonstrate its ability or inability to satisfy the outstanding costs in this suit.
  - d. That in default of appearance and/or in failure to provide reasonable justification for non-compliance, this Honourable Court does declare that the Respondent/Judgment Debtor, Tea Warehouses Limited, is a mere façade or sham being used by the 2<sup>nd</sup> to 9<sup>th</sup> Respondents to shield themselves from liability.
  - e. That in default of appearance and/or in failure to provide reasonable justification for non-compliance, this Honourable Court be pleased to lift the corporate veil and hold the 2<sup>nd</sup> to 9<sup>th</sup> Respondents personally and jointly liable for the full satisfaction of the outstanding amount of KShs. 460,800/-
  - f. That the costs of this Application be borne by the 2<sup>nd</sup> to 9<sup>th</sup> Respondent in their personal capacities.
2. The application is anchored on the grounds set out on the face of it and those obtaining in his supporting affidavit sworn on the 15<sup>th</sup> day of January 2025.
  3. The application was served on the Directors of the Judgment Debtor, but they did not oppose it in any of those ways recognized in the law or at all.
  4. From the supporting affidavit, one gets an inarguable impression that the decretal sum herein has not been settled and that the Directors of the Judgment Debtor Company are as listed in limb (a) of the application.
  5. Having stated this, it is, however, important to state that in an application like the instant, there is never a legal requirement that the Directors be enjoined to the proceedings before an order for issuance of summons against them is granted. As such, entertaining limb (a) of the instant application is unnecessary.
  6. At this juncture, the only order that can be granted on the Applicant's application is that sought in prayer(b) of the application. The rest of the prayers are dependent on the outcome of the proceedings – the cross-examination of the Directors. They shall, therefore, be canvassed after the cross-examination of the Directors and or further directions of the Court.
  7. By reasons of the foregoing premises, for now, I allow only limb(b) of the Notice of Motion application.

**READ, SIGNED AND DELIVERED THIS 31<sup>ST</sup> DAY OF JANUARY 2025.**

**OCHARO KEBIRA**

**JUDGE**

