



**Balo v Babs Security Services Limited (Cause 24 of 2016)
[2025] KEELRC 67 (KLR) (23 January 2025) (Ruling)**

Neutral citation: [2025] KEELRC 67 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 24 OF 2016
M MBARŪ, J
JANUARY 23, 2025**

BETWEEN

SAMUEL MWASHOMBO BALO CLAIMANT

AND

BABS SECURITY SERVICES LIMITED RESPONDENT

RULING

1. The respondent, Babs Security Services Limited, filed an application dated 29 October 2024 seeking orders that the court be pleased to order that the sake of motor vehicle KDG 772B be stopped, the taxed Bill of Costs be set aside for being time-barred and failure by the claimant to serve the same, and there be payment of costs herein.
2. The application is supported by the Affidavit of Isaac Macharia, the managing director, because on 9 December 2016, the court delivered judgment herein. Such concluded the matter. But on 3 April 2024, after 8 years, the claimant filed a Bill of Costs and did not serve the respondent. Nevertheless, Warrants of Attachment dated 16 September 2024 and notice of sale dated 25 October 2024 were served upon the respondent. This was trial by ambush. Due to the time passed, the bill is time-barred and should be set aside. The Bill of Costs proceedings herein are an afterthought, and the orders sought should be issued with costs.
3. In reply, the claimant filed his Replying Affidavit averring that the application is an abuse of the court process and that the respondent is seeking to deny him the fruits of his judgment herein. The respondent has not paid the due costs, which are dated 10 September 2018. The bill was taxed through a ruling delivered on 13 June 2024. Notices were issued to the respondent, and he has refused to make payments as required.



4. Both parties attended court on 25 November 2024 and agreed to address the matter through written submissions by 18 December 2024. There was no compliance. The parties were added 14 more days, and there is no compliance.

Determination

5. Judgment herein was delivered on 9 December 2016 with costs to the claimant.
6. The judgment has not been satisfied to date. The costs awarded are not caste in time limitation. The court's judgment is valid and should be satisfied in full.
7. However, the court notes the time taken by the claimant to file and address the Bill of Costs. From filing the Bill of Costs dated 10 September 2018, it was not addressed until 2024.
8. Execution proceedings are lawful and legitimate. However, there should be no trial by ambush. The time the claimant takes to address the bill of costs should be applied to have the respondent time to address it on the merits.
9. Accordingly, execution proceedings are hereby set aside to allow the claimant to serve the respondent with the Bill of Costs, and there shall be a fresh taxation process before another Taxing Officer other than Hon. D. O. Mbeja in the presence of both parties.
10. The parties will appear before the Taxing Master on 27 January 2025 for directions on the pending Bill of Costs. Each party bears its costs.

DELIVERED IN OPEN COURT AT MOMBASA THIS 23 DAY OF JANUARY 2025.

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Japhet

..... and

