



**Muraguri v Magnus Limited; Kinoti (Objector) (Cause 678 of 2015)  
[2025] KEELRC 495 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 495 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 678 OF 2015  
S RADIDO, J  
FEBRUARY 20, 2025**

**BETWEEN**

**GEDION MWANGI MURAGURI ..... CLAIMANT**

**AND**

**MAGNUS LIMITED ..... RESPONDENT**

**AND**

**METTE KJAER KINOTI ..... OBJECTOR**

**RULING**

1. There are two applications before the Court, a Chamber Summons dated 30 October 2024 by Magnus Ltd (the Respondent) and a Motion by Mette Kjaer Kinoti (the Objector).
2. The Court gave directions on the applications on 4 November 2024, 20 November 2024 and 25 November 2024.

**The Chamber Summons**

3. The Respondent filed a Chamber Summons dated 30 October 2024 seeking orders:
  - i. ...
  - ii. That the Court be pleased to enlarge the time within which the applicant can lodge a Reference to this Court and deem this application as duly filed Reference.
  - iii. That pending the hearing and determination of this application inter partes, the Court be pleased to stay execution of the Certificate of Taxation.



- iv. The decision of the Taxing Officer, as evidenced in the Ruling delivered on 9<sup>th</sup> September 2024 with respect to the entire bill of costs herein be set aside and taxed afresh by this Honourable Court.
  - v. That costs in the application be provided.
4. The grounds in support of the Summons were that the Respondent's advocate was not aware of the taxation on 9 September 2024; the Respondent was not aware that the Cause had been heard and determined; the Respondent only became aware of the taxation upon receipt of a letter on 18 October 2024 from its previous advocate on record and that the bill as taxed was grossly exaggerated.
  5. Pursuant to the Court's order on 4 November 2024, the Respondent deposited Kshs 760,542/- in Court on 7 November 2024 as a condition for an interim stay of execution.
  6. Gedion Mwangi Muraguri (the Claimant) filed a replying affidavit in opposition to the Summons on 8 November 2024.
  7. In the affidavit, the Claimant asserted that the Respondent was represented during the delivery of judgment on 10 November 2022; the Respondent's then advocate filed a Notice of Appeal against the judgment on 16 November 2022; the Bill of Costs and Notice of Taxation were served upon the advocate on record on 14 February 2024; the Respondent's advocate participated in the taxation and even filed submissions in respect to the Bill of Costs and that a cheque sent by the Respondent was rejected because it did not include the taxed costs.
  8. On 20 November 2024, the Court directed the parties to file and exchange (a further affidavit) and submissions within defined timelines.
  9. The Claimant filed his submissions on the Summons on 20 January 2025.
  10. The Respondent filed its submissions in support of the Summons on 3 February 2025 (should have been filed and served on or before 25 December 2024).
  11. The Court has considered the Summons, affidavits, submissions and record.
  12. The record indicates that the Respondent attended the hearing and presented a witness, Benson Kinoti Marete. The Respondent was represented when the Court gave directions on the filing and the exchange of submissions ahead of judgment on 10 November 2022.
  13. The Respondent's advocate was present during the delivery of the judgment. Thereafter, the advocate filed a Notice of Appeal against the judgment.
  14. The record also indicates that the Claimant filed a Bill of Costs on 23 November 2023.
  15. The Bill of Costs and a hearing notice were served and acknowledged by the firm then on record for the Respondent, Waiganjo Wachira & Co. Advocates, on 14 February 2024.
  16. On 24 June 2024, the Taxing Officer informed the parties he would take submissions on 16 July 2024, and the Respondent's advocate was present.
  17. However, the advocate did not attend before the Taxing Officer on 16 July 2024
  18. The record further shows that the Respondent's advocate filed submissions in response to the Bill of Costs on 18 July 2024, and the Taxing Officer delivered his Ruling on 9 September 2024.
  19. The Respondent's advocate fully participated in the proceedings, but it appears that he did not communicate or update the Respondent on the status of the proceedings.



20. It was the professional responsibility of the Respondent's advocate to update it.
21. It is also apt to reiterate the words of the Court of Appeal in *Habo Agencies Ltd v Wilfred Odhiambo Musingo* (2015) eKLR that:

It is not enough for a party in litigation to simply blame the advocates on record for all manner of transgressions in the conduct of the litigation. Courts have always emphasised that parties have a responsibility to show interest in and to follow up their cases even when they are represented by counsel.
22. If the advocate failed in his professional responsibility, the Respondent is not without legal options. One of the options is not enlarging the time to file a Reference or setting aside the taxation or Certificate of Costs.
23. The Summons is for dismissal.  
Motion for Stay of Execution
24. On 31 October 2024, Mette Kjaer Kinoti (the Objector) filed a Motion seeking orders:
  - i. ...
  - ii. That the Honourable Court be pleased to hear the application ex-parte and order a stay (sic) the execution of the decree of this Court dated 18-10-2024 pending the hearing of this application inter partes and thereafter pending final determination or further orders of the Court.
  - iii. That costs of this application be provided for.
25. The main grounds in support of the application were that the Claimant had sent auctioneers who had proclaimed the properties of Mette Kjaer Kinoti (the Objector) at her residence in Karen, yet she was not a party to the Cause, the judgment debtor was a limited liability company, and the Objector was only a director.
26. The Objector produced copies of motor vehicle registration books to show that one of the vehicles proclaimed (KDM 460U) was registered in her name.
27. The Claimant filed a replying affidavit opposing the Motion on 8 November 2024. In the affidavit, the Claimant averred that the proposed order could not be granted as drafted as it sought a stay of execution of the decree and not a stay of attachment; granting the orders sought would be tantamount to denying him the fruits of the judgment and the Objector was not a party to the Cause and therefore cannot seek a stay of the decree.
28. The Objector filed submissions in support of her Motion on 3 February 2025 (should have been filed and served on or before 25 December 2024). The Claimant filed his submissions on 20 January 2025.
29. The Claimant did not rebut the Objector's assertions that the proclamation/attachment was carried out at the Objector's residence.
30. There is no indication whatsoever on the record that the Respondent operated from the Objector's residence or that its properties were kept or hidden in the residence.
31. The Court is satisfied that the Claimant proclaimed/attached properties which did not belong to the Respondent, and the proclamation/attachment cannot stand.



## **Orders**

32. The Court makes the following orders:

- i. The Summons dated 30 October 2024 is dismissed with costs.
- ii. The Motion dated 30 October 2024 is allowed in terms that the proclamation/warrants of attachment of 28 October 2024 are set aside/vacated.

33. The Objector is denied costs for failing to file/serve submissions within the agreed timelines.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 20<sup>TH</sup> DAY OF FEBRUARY 2025.**

**Radido Stephen, MCIArb**

## **Judge**

Appearances

For Claimant Mwaniki Njuguna & Co. Advocates

For Respondent Karanja Otunga & Associates Advocates

For Objector Karanja Otunga & Associates Advocates

Court Assistant Wangu

