



**Waweru v Tripple Edge Media Limited; Africa Fil and TV Talent Training Institute
(Objector) (Cause E835 of 2021) [2025] KEELRC 457 (KLR) (21 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 457 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E835 OF 2021
AK NZEI, J
FEBRUARY 21, 2025**

BETWEEN

MAURICE MWANGI WAWERU CLAIMANT

AND

TRIPPLE EDGE MEDIA LIMITED RESPONDENT

AND

AFRICA FIL AND TV TALENT TRAINING INSTITUTE OBJECTOR

RULING

1. The Court's record herein shows that on 14th March, 2024, this Court (Dr. Jacob Gakeri, J) delivered a Judgment in favour of the Claimant, awarding him Kshs.561,644.80 being salary arrears, costs of the suit and interest at court rates from the date of the Judgment. The Court's record further shows that party and party costs were on 27th June, 2024 taxed at Kshs.80,188/= and that execution thereafter issued against the Respondent.
2. On 9th October, 2024, the Respondent (Triple Edge Media Limited) filed an urgent Notice of Motion seeking the following Orders:-
 - a. that the application be certified urgent, and be heard ex-parte at the first instance.
 - b. that pending inter-partes hearing and determination of the application, the Court be pleased to stay execution of the ex-parte Judgment dated 14th March, 2024 as well as all proceedings and actions consequent thereon, including enforcement and/or execution proceedings under the decree dated 19th September, 2024.
 - c. that the Court be pleased to set aside the Judgment dated 14th March, 2024 and decree dated 19th September, 2024 respectively, and all consequential orders and actions as against the Respondent/Applicant.



- d. that the Court be pleased to set aside the warrants of attachment and proclamation notice, issued pursuant to the Judgment dated 14th March, 2024 and decree dated 19th September, 2024 respectively.
 - e. that the Court be pleased to order and direct the Plaintiff to effect proper service upon the Respondent, through his counsel's address, within 3 days of the Ruling on the subject application.
 - f. that the Court be pleased to grant leave to the Respondent/Applicant to file his statement of [response] and trial bundle [of documents] within 14 days of the Ruling on the subject application.
 - g. That costs of the application be in the cause.
3. The application, supported by an affidavit of Josylyn Chebet Juma sworn on 7th October, 2024, was first placed before me under a certificate of urgency on 9th October, 2024. On 17th October, 2024, in the presence of Counsel for the Respondent/Applicant and Counsel for the Claimant/Respondent, I gave directions on disposal of the application and further gave the following interim order:-
- “In the meantime, there will be interim stay of execution of the Court's decree herein on condition that the Respondent/Applicant deposits the Judgment sum in court within 14 days of today.”
4. The foregoing order was never complied with by the Respondent/Applicant.
5. Among the documents annexed to the aforesaid supporting affidavit were the Court's decree herein and a proclamation of attachment of movable property dated 26th September, 2024 and issued by Fisra Auctioneers; listing computers, laptops, printers/photocopiers, cameras, boardroom table, office desks, reception desk and rolling chairs. These items had been proclaimed by the said Auctioneer in execution of the Court's decree herein. It is this execution which this Court conditionally stayed, in the interim, on 17th October, 2024 as already stated in this Ruling.
6. On 5th November, 2024, a Notice of Motion dated 31st October, 2024 was filed by African Film And TV Talent Training Institute, described in the application as the Objector, seeking restraining orders against the aforementioned Fisra Auctioneers and lifting of the aforementioned proclamation of the Objector's goods as follows:-
- a. that in the interim, the Court be pleased to grant the Objector Orders pending inter-partes hearing and determination of the application; that the Respondent/Decree Holder either by itself, its employees, officers, servants, assignees and/or agents including Fisra Auctioneers, the Interested Party herein, be restrained forthwith from attaching, alienating, selling, disposing of or in any way interfering with the Objector in the subject movable property being computer, laptops, printers, cameras, boardroom table, office desks, reception desk and rolling chairs, pending hearing and determination of the application.
 - b. that in the interim, this Court do issue orders raising/lifting the Proclamation of the Objector's goods namely computer, laptops, printers, cameras, boardroom table, office desks, reception desk and rolling chairs, pending hearing and determination of the application.
 - c. that costs of the application be in the cause.
7. The application, based on the supporting affidavit of Ben Karweru Githinji sworn on 4th November, 2024, was placed before me in Chambers under a certificate of urgency, and finding no urgency in



it, I directed that the same be served. It is worthy noting that no Notice of Objection had been filed alongside the aforesaid Notice of Motion (dated 31st October, 2024) pursuant to Order 22 Rules 51 and 52 of the Civil Procedure Rules.

8. Counsel for the Objector, Counsel for the Claimant and Counsel for the Respondent appeared before me on 7th November, 2024 upon service of the Objector's said application. I gave Orders on filing of responses to the application, and declined to issue interim orders as sought in the Objector; as in the absence of a Notice of Objection, as rightly argued by Counsel for the Claimant/Decree holder, such orders could not issue (under Order 22 Rules 51 and 52 of the Civil Procedure Rules).
9. On 15th November, 2024, the Objector filed yet another Urgent Notice of Motion dated 13th November, 2024 seeking the following Orders:-
 - a. that the Court be pleased to review and set aside its Orders of 7th November, 2024 and grant interim orders as prayed in the application dated 31st October, 2024.
 - b. that the Court do review and set aside its Orders of 7th November, 2024 and allow the Objector to file its Notice of Objection.
 - c. that costs of the application be in the cause.
10. The foregoing application is based on a supporting affidavit of Kathambi Rwito Advocate sworn on 13th November, 2024. The Claimant/Decree Holder opposed the Objector's Notice of Motion dated 31st October, 2024 vide his replying affidavit sworn on 24th November, 2024 and filed a Notice of Preliminary Objection dated 19th November, 2024 regarding the Objector's Notice of Motion dated 13th November, 2024.
11. On 20th November, 2024, I directed that the Objector's Notice of Motion applications dated 31st October, 2024 and 13th November, 2024 respectively be heard first, and be heard simultaneously. I further ordered that the said two applications be canvassed by way of written submissions, and that the Claimant/Decree Holder's Notice of Preliminary Objection dated 19th November, 2024 be treated as grounds of opposition (to the Notice of Motion dated 13th November, 2024).
12. Before me for determination, therefore, are the Objector's two applications dated 31st October, 2024 and 13th November, 2024 respectively, which are opposed by the Claimant/Decree holder as I have already stated in this Ruling.
13. The Notice of Motion dated 31st October, 2024.

Without belabouring the point, the Objector's Notice of Motion dated 31st October, 2024 is clearly incompetent, and orders sought therein cannot issue. Order 22 Rule 51 of the Civil Procedure Rules provides as follows:-

- “(1) Any person claiming to be entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree may at any time prior to payment out of the proceeds of sale of such property give notice in writing to the Court and to all the parties and to the decree holder of his objection to the attachment of such property.
- (2) Such notice shall be accompanied by an application supported by an affidavit and shall set out in brief the nature of the claim which such Objector or person makes to the whole or portion of the property attached.



- (3) Such notice of objection and application shall be served within seven days from the date of filing on all the parties.”
14. The purported Objector/Applicant in the present case did not file the Notice of Objection contemplated in Order 22 Rule 51 (1) and (3). In the wording of the said Rule and sub-rules, the primary document, and vide which the Objector proceedings are originated, is the Notice of Objection, which is to be accompanied by an application as provided in sub-rule 2, briefly setting out the nature of the Objector’s claim in any attached property. Any application filed without the Notice of Objection is invalid and incompetent, and cannot stand. The aforesaid law does not give liberty to would-be “Objectors” to file ordinary applications and, at their own convenience, apply for the Court’s leave to file a Notice of Objection afterwards. Where the law specifically provides that particular proceedings be commenced and/or originated in a particular manner, that particular procedure must be followed; and pleadings must be filed in compliance with that law.
15. The Court stated as follows in the case of *Gacau Kariuki & Co. Advocates – vs – Allan Mbugua Ng’anga* [2012] eKLR:-
- “ . . . It has been said time and again that where there is a specific procedure provided for addressing a grievance, that procedure should be strictly complied with.”
16. Further, and for record purposes, it is to be noted that the movable properties whose attachment the purported Objector purports to object to (computers, laptops, printers/photocopies, cameras, boardroom table, office desks, reception desk and rolling chairs) are shown to be the same items regarding which the Respondent/Judgment debtor has sought stay of execution of this Court’s decree vide the Notice of Motion dated 7th October, 2024. Conditional interim stay of execution was ordered in that application on 17th October, 2024. The present application was filed two weeks later. The purported Objector/Applicant has not demonstrated what interest it has in the said movable properties attached/proclaimed by Fiska Auctioneers on 26th September, 2024, legal or equitable.
17. The Notice of Motion dated 31st October, 2024 is incompetent and without merit, and is hereby dismissed with costs.
18. The Notice of Motion dated 13th November, 2024.
- As already stated in this Ruling, the application contemplated in Order 22 Rule 51(2) must accompany a Notice of Objection as contemplated in Rule 51(1) & (3) of the Civil Procedure Rules. A purported Objector cannot file an ordinary application and thereafter seek the Court’s leave to file a Notice of Objection. The prayer for leave to file a Notice of Objection is therefore declined.
19. Likewise, the prayer for review and setting aside of this Court’s orders dated 7th November, 2024 cannot be granted. The Orders made by this Court on 7th November, 2024 were as follows:-
- “(1) The prayer for interim orders of stay of execution is declined, as NO Notice of Objection was filed, and none was served.
- (2) The Respondent and the Claimant are granted 10 days to file and serve responses to the application dated 31/10/ 2024.
- (3) Mention for further directions on 20/11/2024.”
20. The purported Objector/Applicant has not told the Court which of the foregoing Orders it wants reviewed and set aside, and why.



21. Under Rule 74 of the Employment and Labour Relations Court (Procedure) Rules 2024, this Court can only review its orders or decrees that have not been appealed against:-
- a. If there is discovery of a new and important matter or evidence which, despite exercise of due diligence, was not within the knowledge of the person seeking review at the time when the decree was passed or the order was made.
 - b. On account of some mistake or error apparent on the face of the record.
 - c. If the Judgment or ruling requires clarification, or
 - d. For any other sufficient reason.
22. The purported Objector/Applicant has not demonstrated the existence of any of the foregoing grounds, or any other sufficient reason and/or ground. The prayer for review is therefore declined. The Notice of Motion dated 13th November, 2024 is an abuse of this Court's process, and is hereby dismissed with costs.
23. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS *21ST DAY OF FEBRUARY 2025

AGNES KITIKU NZEI

JUDGE

ORDER

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

Appearance:

Miss Kathambi for the Objector/Applicant

Mr. Kinyanjui for the Claimant/Decree holder

Mr. Anyonje for the Respondent/Judgement debtor

