



**Jaji & another v Habo Group of Companies Limited (Cause  
487 of 2017) [2025] KEELRC 1242 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1242 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
CAUSE 487 OF 2017  
M MBARÚ, J  
APRIL 30, 2025**

**BETWEEN**

**EBINATE JAJI ..... 1<sup>ST</sup> CLAIMANT**

**ANSENTOS OKOTH ..... 2<sup>ND</sup> CLAIMANT**

**AND**

**HABO GROUP OF COMPANIES LIMITED ..... RESPONDENT**

**RULING**

1. The respondent, Habo Group of Companies Limited, filed an application dated 13 November 2024 under the provisions of Order 22 rule 25(c) of the Civil Procedure Rules and article 25(c) and 50 of the constitution, section 94 of the Civil Procedure Act, seeking orders,
  1. Spent.
  2. Spent.
  3. This court be pleased to set aside/vacate the Warrants of Arrest issued on 2.10.2024.
  4. Costs of this application be provided for.
2. Monica Anyango Awit, a director of the respondent/applicant, supports the application. Awiti aver that the Thabit & Wampy & Gitonga Advocates are not correctly on record to represent the respondent and hence have no audience right. The respondent has never been served with an application to show cause dated 20 May 2024, and the execution process initiated by the claimants is irregular and void. The judgment herein was delivered on 29 March 2020, and one year has since lapsed before execution was issued. The notice to show cause was not initiated pursuant to Order 21, Rule 18 of the Civil Procedure Rules.



3. Awiti avers in the Supporting Affidavit that the firm of Thabit & Wampy & Gitonga Advocates is not correctly on record. For these reasons, the court lacks the jurisdiction to continue with the process of execution in the manner herein sought by the claimants. The respondent is Habo Group Of Companies and should not be confused with Habo Group Of Companies Limited. No amendment has been obtained to bring Habo Group Of Companies Limited as a respondent. Such an entity does not exist, having been dissolved by the Registrar of Companies through Gezette Notice No. 666 dated 29 January 2021. Because of dissolution, section 905(1) of the Companies Act, this court lacks jurisdiction to entertain the application dated 20 May 2024 because the respondent's properties are vested in the state upon the dissolution.
4. The respondent also filed Notice of Preliminary Objections dated 13 November 2024 on the basis that;
  1. The firm of Thabit Wampy & Kitonga Advocates is not correctly on the records and has no right of audience.
  2. The pleadings filed by the firm of Thabit Wampy & Kitonga Advocates are improperly filed because the firm is not on record. They should be expunged from the records and all orders issued in respect thereof vacated.
  3. Following the respondent's dissolution through Gazette Notice No.666 dated 29 January 2021 and considering the provisions of section 905 (1) and (4) of the Companies Act 2015, this court lacks jurisdiction to proceed in the manner urged by the claimant herein.
5. In reply, the claimants filed the Replying Affidavit of Ebinata Jaji, the 1<sup>st</sup> claimant, with authority from the 2<sup>nd</sup> claimant. She avers that her advocates are Thabit Wampy & Gitonga Advocates, and the application by the respondent is an abuse of court process. The respondent has filed applications duplicating similar orders under the Notice of Preliminary Objections. The court has addressed the issue of stay of execution with finality.
6. The claim that the firm of Thabit Wampy & Kitonga Advocates is not correctly on record is addressed through the Notice of Change of Advocates dated 5 October 2018 and served upon the respondent.
7. The application dated 20 May 2024 was served upon the respondent, and a hearing notice dated 24 July 2024 was served. There is an Affidavit of Services to confirm service.
8. The claimant avers that they filed this claim on 21 June 2017, and judgment was delivered on 29 May 2020. Execution commenced with Warrants for Execution to the auctioneers, who were unsuccessful upon the company's dissolution. The claimants filed an application dated 20 May 2024 to lift the company veil and for the court to find the company directors personally liable to settle the decretal sum. Its directors controlled the respondent. Augustine Omondi Awiti, Hezron Awiti Bolo, Monica Anyango Awiti, Mamba Village Centre Limited, Silver Dust Limited and Habo Agencies Limited per the CR12 dated 28 May 2019.
9. The respondent entered an appearance in this matter and filed a response on 30 October 2017 and 8 March 2018, respectively. The hearing proceeded without objections, and the respondent was represented. The cause of action arose in 2016 when the respondent unlawfully terminated the claimants' employment while the Gazette Notice No.666 of 29 January 2021 was issued post-judgment. The fact that the company does not exist is not a defence since the cause of action arose during the company's existence, and judgment was entered correctly herein. The respondent's directors should not be allowed to defeat the course of justice by hiding behind the corporate veil and should be held personally liable to settle the judgment award. The objections and application should be dismissed with costs.



10. Both parties attended and filed skeleton written submissions and highlighted them in court. These are analysed and the issues which emerge for determination are;

Whether the firm of Thabib Wampy & Kitonga Advocates is properly on record;

Whether the dissolution of the respondent company under Gazette Notice No. 666 of 29 January 2021 denies this court jurisdiction; and

Whether the orders sought should be issued.

11. The firm of Thabib Wampy & Kitonga Advocates came on record following the Notice of Change of Advocates that was served upon the respondent. The Notice of Change of Advocates is acknowledged, and hence, the assertions that the firm on record for the claimant and the documents filed should be expunged hold no justification.
12. The claimants filed this claim on 21 June 2017, and the respondent filed a response on 8 March 2018. Judgment was delivered on 29 May 2020.
13. The respondent has challenged the court's jurisdiction by invoking Gazette Notice No. 666 of 29 January 2021. The case is that, upon the Gazette Notice, there is no company for execution. The state has seized the matters, and unless the claimants sue the Attorney General, this court has no jurisdiction to proceed with any execution process. The respondent has raised similar defences in other cases as herein. In the case of *Ndunda & 5 others v Habo Group of Companies Limited* [2024] KEELRC 439 (KLR), the court rejected similar defences. It directed the claimants to proceed with execution since judgment had already been issued when Gazette Notice No. 666 was issued. Similar orders issued in *James Gitau Kamau & 9 others v Habo Group of Companies Limited & another* [2021] KEELRC 1676 (KLR), where the court held that;
14. According to the Gazette Notice, the Respondent was dissolved under Section 897(4) of the *Companies Act*, which provides for the dissolution of companies pursuant to their own application. Under Section 897(6) however, directors and other officers of a dissolved company may be pursued to settle liability as if the company had not been dissolved.
15. In the case of *Patrick Mutua Mwanzia & 19 others v Habo Group of Companies Limited; HGC Habo Group Limited (Objector)* [2021] KEELRC 1685 (KLR), similar orders were issued as in the case of James Gitau Kamau & 9 others, cited above.
16. The court cannot allow the respondent to abuse the process or rely on a self-initiated dissolution process to defeat the ends of justice. Indeed, under Section 897(6) of the *Companies Act*, company directors cannot dissolve a company to avoid liability to debtors, including their former employees who have a valid court judgment.
17. In this regard, the court finds the objection to jurisdiction without any basis.
18. The court will hear the application dated 20 May 2024 on merit.

Accordingly, the application and objections dated 13 November 2024 are without merit and are hereby dismissed with costs to the claimants.

**DELIVERED IN OPEN COURT AT MOMBASA THIS 30TH DAY OF APRIL 2025**

**M. MBARŪ**

**JUDGE**



In the presence of:

Court Assistant: Japhet

..... and .....

