



**Shollei v Keroche Breweries Limited (Cause 35 of 2019)
[2025] KEELRC 1577 (KLR) (30 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1577 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE 35 OF 2019**

**J RIKA, J
MAY 30, 2025**

BETWEEN

SAM KRUS SHOLLEI CLAIMANT

AND

KEROCHE BREWERIES LIMITED RESPONDENT

RULING

1. The Respondent filed an application dated 3rd March 2025.
2. The orders sought are: -
 - a. The Firm of Waruiru Karuku & Mwangale Advocates is granted leave to come on record for the Respondent.
 - b. Pending hearing and determination of the application, the Honourable Court be pleased to stay further execution of the judgment, the resultant decree and all other consequential orders against the Respondent.
 - c. The Court be pleased to set aside and or vary decree and all orders ensuing therefrom.
 - d. The Court be pleased to make such other order as it may deem fit to grant.
3. The application is founded on the affidavit of Nicholas Kipchirchir Kechir, who identifies himself as the Respondent's Operations Manager, sworn on 3rd March 2025.
4. Kechir states that the Respondent's previous Advocates failed to serve the Respondent's new Advocates with the notice of taxation and other taxation proceedings documents. The new Advocates were therefore unaware of impending proceedings. Failure to serve the documents led to the matter being dismissed by the Appellate Court for want of prosecution.



5. The Respondent states that dismissal of the Appeal led to proclamation of the Respondent's goods on 3rd May 2023. The Respondent apprehends that its assets will be attached by Auctioneers and its business operations disrupted. The proclaimed machine is highly sophisticated.
6. The application is opposed through the affidavit of the Claimant, sworn on 13th March 2025. He states that Kechir is not the Respondent's Operations Manager; he is another disgruntled Employee, who intended to sue the Respondent for his employment dues.
7. Judgment was entered for the Claimant in the sum of Kshs. 45,550,051. The Respondent was aware about taxation proceedings and even filed submissions. Certificate of taxation would not have issued without proof of service. The Respondent has always been aware about the Claimant's intention to execute decree.
8. The Respondent's CEO Tabitha Karanja, approached the Claimant, proposing to settle the decretal sum by instalments. The Respondent then filed an Appeal at the Court of Appeal in Nakuru. The Appeal was dismissed around August 2023. Tabitha Karanja approached the Claimant, proposing to start payment in November 2023. She later proposed to start paying in January 2024 and July 2024.
9. On 20th February 2024, Karanja and the Claimant executed a memorandum of understanding. They agreed that the decretal sum, then standing at Kshs. 56,921,992.00, would be paid within a period of 6 months. The Respondent did not pay. The Claimant's attempt at attaching the Respondent's assets have been frustrated by Police Officers at Naivasha Police Station.
10. Police Officers accompanying Auctioneers to the Respondent's business premises for attachment were called by their superiors while there, and advised to withdraw. The Claimant has been compelled to lodge a complaint, with the Inspector-General of Police.
11. The application was last mentioned before the Court on 23rd April 2024, when the Parties confirmed filing and exchange of their submissions.

The Court Finds: -

12. Judgment was delivered way back on 27th September 2022, in favour of the Claimant. He was awarded terminal benefits and compensation for unfair termination, in the sum of Kshs. 45,550,051.
13. The Respondent states through the affidavit of Nicholas Kipchirchir Kechir that it lodged an Appeal at the Court of Appeal against the decision of the E&LRC. That Appeal was dismissed by the Court of Appeal.
14. What is left in this dispute is only the satisfaction of the decree. The E&LRC has reached the limit of its jurisdiction on the substantive dispute. It is functus officio. There is no basis for the Court to revisit its Judgment and stay, vary or set aside its Judgment.
15. There is no basis to grant the Law Firm of Waruiru Karuku & Mwangale Advocates leave to come on record for the Respondent. The Advocates came on record way back on 9th March 2023, when they filed a Notice of Change of Advocates dated 5th December 2022. This was as soon as the Judgment on record was delivered. They filed submissions on taxation of the Claimant's Bill of Costs. The submissions are dated 5th December 2022.
16. Why seek leave almost 3 years later in 2025? How is it that the Respondent's Advocates were not aware about taxation, yet they filed submissions on taxation? What does taxation of costs have to do with dismissal of the Appeal, by the Court of Appeal?



17. The record suggests that the application filed by the Respondent dated 3rd March 2025, is merely intended to delay execution of the decree.
18. The Respondent's CEO and the Claimant met, and quite sensibly, agreed on satisfaction of the decree through instalments. The Respondent however reneged, and opted to delay execution, with all manner of tactics.
19. The application dated 3rd March 2025 has no merit.

It is Ordered: -

- a. The application dated 3rd March 2025 filed by the Respondent is declined.
- b. Costs to the Claimant.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAKURU, THIS
30TH DAY OF MAY 2025.**

JAMES RIKA

JUDGE

