



**Kariuki t/a Direct Auctioneers v Sheracco Savings & Credit Society Limited & 2 others
(Miscellaneous Application E024 of 2024) [2025] KEELRC 1869 (KLR) (27 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1869 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
MISCELLANEOUS APPLICATION E024 OF 2024**

**J RIKA, J
JUNE 27, 2025**

BETWEEN

GEOFFREY KARIUKI T/A DIRECT AUCTIONEERS DECREE HOLDER

AND

**SHERACCO SAVINGS & CREDIT SOCIETY LIMITED 1ST JUDGMENT
DEBTOR**

KARUTURI LIMITED 2ND JUDGMENT DEBTOR

CFC BANK LIMITED 3RD JUDGMENT DEBTOR

RULING

1. This ruling relates to an application brought by the 2nd and 3rd Respondents, dated 19th March 2025.
2. They seek an order for reinstatement of their application dated 22nd January 2025.
3. The application dated 22nd January 2025, sought orders for stay of execution of the decree, and setting aside in its entirety, of the Bill of Costs which was taxed in favour of the Applicant/ Auctioneer.
4. The application was dismissed on 4th March 2025 for non-attendance.
5. The 2nd and 3rd Respondents explain that non-attendance was not deliberate. It is inexcusable. Counsel for the 2nd and 3rd Respondent failed to diarize the hearing date. The 2nd and 3rd Respondents ought not to be punished for the error of their Counsel.
6. The application is opposed through the affidavit of the Applicant's Counsel, Naomi Muriithi, sworn on 24th April 2025.
7. She states that the application dated 22nd January 2025, was filed by the 2nd and 3rd Respondents under certificate of urgency. It was scheduled for hearing on 4th March 2025. The 2nd and 3rd Respondents did not attend hearing. The application was correctly dismissed for non-attendance.



8. Parties agreed that the application is considered and determined on the strength of their affidavits and submissions.

The Court Finds: -

9. The 2nd and 3rd Respondents' Counsel's absence from the Court on 4th March 2025, was not an isolated case.
10. The record indicates that there was no attendance for the 2nd and 3rd Respondents on 1st October 2024, when the Taxing Officer delivered her ruling on taxation.
11. The Applicant filed an application dated 3rd December 2024 for adoption of the certificate of costs as a decree of the Court. It was scheduled for hearing on 11th December 2024.
12. The 2nd and 3rd Respondent, and their Counsel did not attend Court, and the application dated 3rd December 2024 was allowed un-opposed.
13. The 2nd and 3rd Respondents then filed the application dated 22nd January 2025 under certificate of urgency, asking for stay of execution of decree.
14. Considering the urgency, the Court scheduled the application for hearing on 4th March 2025. The Applicant's Counsel attended Court, ready to respond to the application. The 2nd and 3rd Respondents, and their Counsel, did not again, attend Court.
15. It was the 3rd time absent. This was in keeping with the Respondent's past practice. The application was dismissed for non-attendance.
16. Non-attendance was therefore neither inadvertent, nor excusable. It was an established practice and pattern.
17. It is ordered: -
 - a. The application dated 19th March 2025 is declined.
 - b. Costs to the Applicant/ Auctioneer.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, THIS 27TH DAY OF JUNE 2025.

JAMES RIKA

JUDGE.

