



**V Chokaa & Co Advocates v Roy Hauliers (Miscellaneous Cause E236 of 2024) [2025] KEELRC 1674 (KLR) (10 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1674 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS CAUSE E236 OF 2024**

**S RADIDO, J**

**JUNE 10, 2025**

**IN THE MATTER OF THE ADVOCATES ACT, CAP 16, LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE TAXATION OF COSTS BETWEEN ADVOCATE AND CLIENT**

**AND**

**IN THE MATTER OF NAIROBI MAGISTRATES ELRC CAUSE NO. 165 OF 2019**

**BETWEEN**

**V CHOKAA & CO ADVOCATES ..... APPLICANT**

**AND**

**ROY HAULIERS ..... RESPONDENT**

**RULING**

1. For determination is a Motion dated 3 April 2025 by Roy Hauliers (the Respondent) seeking orders:
  - i. ...
  - ii. That the Honourable Court be pleased to order that there be a stay of execution of the Ruling made on 20<sup>th</sup> February 2025 and 27<sup>th</sup> February 2025 respectively in Employment and Labour Relations Miscellaneous Application E227/2024, E230/2024, E237/2024, E238/2024, E239/2024, E240/2024, E224/2024, E231/2024, E232/2024, E234/2024, E235/2024, E236/2024 and E24/2024 pending the hearing and determination of the application inter-partes.
  - iii. That the Honourable Court be pleased to order that there be a stay of execution of the Ruling made on 20<sup>th</sup> February 2025 and 27<sup>th</sup> February 2025 respectively in Employment and Labour Relations Miscellaneous Application E227/2024, E230/2024,



E237/2024, E238/2024, E239/2024, E240/2024, E224/2024, E231/2024, E232/2024, E234/2024, E235/2024, E236/2024 and E24/2024 pending the hearing and determination of the application.

- iv. That this Honourable Court be pleased to order that there be no enforcement of the proclamation dated 27<sup>th</sup> March 2025 pending the hearing and determination of this application inter-partes.
  - v. That this Honourable Court be pleased to order that there be no enforcement of the proclamation dated 27<sup>th</sup> March 2025 pending the hearing and determination of this application.
  - vi. That the Respondent does pay the costs of this application.
  - vii. That any other orders as this Honourable Court deems apt and just to issue.
2. The grounds advanced in support of the Motion were that the Respondent failed to factor the fact that it had paid the advocate Kshs 969,104/- on 16 May 2023 out of the taxed costs of Kshs 2,287,511/- and that the advocate was in the process of enforcement of a proclamation dated 28 March 2025.
  3. When the Motion was placed before the Court ex-parte on 4 April 2025, it granted an interim stay of execution on the condition that the Respondent deposit the sum of Kshs 969,104/- in Court or provide a bank guarantee before the end of 10 April 2025. The Respondent did not comply with the condition.
  4. The Respondent filed its submissions on 17 April 2025, in which it submitted that there was an imminent risk of sale of the proclaimed properties; it had made the application without delay and that it stood to suffer substantial loss if a stay order was not granted.
  5. The Respondent indicated that it was ready to provide security for the due performance of the decree.
  6. The advocate filed a replying affidavit opposing the Motion on 22 April 2025.
  7. In the affidavit, the advocate deponed that the sum of Kshs 969,104/- was made by the Respondent as security for a stay of execution pending the hearing and determination of an appeal arising from Cause No. 1818 of 2019, *Japheth Simiyu v Roy Hauliers* and not as part settlement of advocates costs; that the appeal was compromised on 2 October 2023 and the security released to the firm of Lemmy Regau & Co. Advocates and that the advocate only had in its accounts Kshs 111,110/- to the credit of the Respondent.
  8. The advocate did not file submissions.
  9. The Court has considered the Motion, affidavits and the Respondent's submissions and concludes that the Motion is completely devoid of merit for the following reasons.
  10. One, all the orders pleaded by the Respondent were transient and lapsed or became overtaken by events when they were not granted at the ex-parte stage. In other words, the orders sought were to preserve the status quo pending the hearing and determination of the application.
  11. Two, the advocate produced records to show that the payment of Kshs 969,104/- was made in relation to security of costs pending an appeal in Cause No. 1818 of 2019, *Japheth Simiyu v Roy Hauliers Ltd*, and not as part payment of legal costs in the files listed in paragraph 1(ii) and (iii) above.



12. Three, the advocate's costs were taxed on 30 September 2024, while the Respondent had made the payment for security of costs in Cause No. 1818 of 2019, *Japheth Simiyu v Roy Hauliers Ltd* on 16 May 2023. The payment was not related to the advocate/client Bill of Costs or fees.
13. Lastly, the Respondent failed to comply with a condition to provide a bank guarantee or deposit in Court the amount in contention. It was upon that condition that the Court granted an interim stay of execution. As a party seeking an exercise of the Court's discretion, the Respondent should have demonstrated bona fides by complying with the order.
14. The Court notes that the Respondent has been filing application after application in the related files without any synchronisation, and the applications have at one time or the other been placed before different Courts.
15. To avoid the possibility of embarrassing outcomes, the Court directs that any future applications, if any, should be filed in this Cause/file, which is now titled Lead File.
16. The delivery of this Ruling has been brought forward with notice to the parties because the Court will not sit on 26 June 2025.

### **Orders**

17. The Court orders:
  - i. The Motion dated 3 April 2025 is dismissed with costs to the Advocate.
  - ii. This Ruling/orders to apply in all the files enumerated in paragraph 1(iii) above.
  - iii. This file is designated Lead File, and any further application should be made herein.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 10<sup>TH</sup> DAY OF JUNE 2025.**

**RADIDO STEPHEN, MCI Arb**

**JUDGE**

Appearances

For applicant V. Chokaa & Co. Advocates

For Respondent Waruiru, Karuku & Mwangale Advocates

Court Assistant Wangu

