



V. Chokaa & Co., Advocates v Roy Hauliers (Miscellaneous Cause E241 of 2024) [2025] KEELRC 1675 (KLR) (10 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1675 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS CAUSE E241 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 11 April 2025 by Roy Hauliers (the Respondent) seeking orders:
 - i. ...
 - ii. That this Honourable Court be pleased to stay the execution of the decree of the Employment and Labour Relations Court issued in ELRC Misc. Appl. No. E227, 228, 229, 230, 231, 232, 234, 235, 236, 237, 238, 239, 240 & 241 of 2024 on 20th and 27th February, 2025, entering judgment for the Applicant/Respondent, against the Respondent/Applicant for Kshs. 2,287,511.05/- together with all consequential orders, pending the hearing and determination of this application inter-partes.
 - iii. That this Honourable Court be pleased to stay the execution of the decree of the Employment and Labour Relations Court issued in ELRC Misc No. E227, 228, 229, 230, 231, 232, 234, 235, 236, 237, 238, 239, 240 & 241 of 2024, 2024 on 20th and 27th February,



2025, entering judgment for the Applicant/Respondent, against the Respondent/Applicant for Kshs. 2,287,511.05/- together with all consequential orders, pending the hearing and determination of this application.

- iv. That this Honourable Court be pleased to review and set aside the judgment and decree issued on 20th and 27th February, 2025, in ELRC Misc No. E227, 228, 229, 230, 231, 232, 234, 235, 236, 237, 238, 239, 240 & 241 of 2024, on the grounds that this Honourable Court lacked jurisdiction to hear and determine the matter, being a commercial dispute outside its mandate.
 - v. That in the alternative, this Honourable Court be pleased to withdraw the orders in the judgment and decree issued on 20th and 27th February, 2025, in ELRC Misc No. E227, 228, 229, 230, 231, 232, 234, 235, 236, 237, 238, 239, 240 & 241 of 2024 entering judgment for the Applicant/Respondent, against the Respondent/Applicant for Kshs. 2,287,511.05/- due to lack of jurisdiction.
 - vi. THAT costs of this Application be provided for.
2. The grounds advanced in support of the Motion were that the Respondent had objected to the taxation of the advocate's various Bills of Costs because there was an agreement on legal fees as contemplated under section 45(6) of the Advocates Act and all the fees were settled; the Court dismissed the Objections and the advocate moved to execute; this Court did not have jurisdiction over disputes concerning bills of costs or legal fees which are purely disputes of a commercial nature under the Advocates Act; the jurisdiction of the Court was restricted to the matters envisaged under Article 162(2)(a) of the Constitution, and that the Respondent would suffer irreparable harm if the orders sought were not granted.
 3. When the Motion was placed before the Court ex-parte on 17 April 2025, it granted an interim stay of execution, which was to lapse on 23 April 2025.
 4. The advocate filed Grounds of Opposition to the Motion on 22 April 2025, contending that the Respondent had filed a Reference precipitating the Rulings under challenge; the Respondent should have appealed against the orders of 20 February 2025 and 27 February 2025; the Court was now functus officio after determining the Reference; the Court had jurisdiction to enforce a Certificate of Costs; the Motion was filed during vacation and no leave had been sought; the Respondent had failed to comply with Court orders issued on 14 November 2024 and 4 April 2025, and that the listed files had not been consolidated to warrant issuance of blanket orders.
 5. When the Motion was placed before the Duty Court for inter partes proceedings on 28 April 2025, it directed that it be placed before this Court on 6 May 2025.
 6. On 6 May 2025, this Court gave directions on the filing and exchange of submissions.
 7. The Respondent filed its submissions on 9 May 2025 and Supplementary submissions on 12 May 2025.
 8. The advocate filed his submissions on 19 May 2025.
 9. The Court has considered the Motion, affidavits and submissions and makes the following determinations.
 10. One, the Respondent, in its wisdom, moved this Court through a Summons (Reference) on 15 October 2024 seeking the setting aside of a taxation of the advocate/client fees.



11. Then, the Respondent did not suggest that the Court did not have jurisdiction over the Reference it is now asserting that the Court did not have jurisdiction over.
12. The Respondent is clearly speaking from both sides of its mouth.
13. Two, the Respondent also moved the Court through a Motion dated 3 April 2025, seeking a stay of execution, and it did not make any argument therein that the Court was not possessed of the requisite jurisdiction to grant the stay of execution it was seeking.
14. If the Motion is bona fide, then the Respondent should not have moved a Court it strongly believes lacks jurisdiction to grant the stay orders prayed for in the instant Motion and the Motion dated 3 April 2025.
15. Three, on the assumption by the Respondent that this Court lacked or lacks jurisdiction, it is a legal marvel that it is asking the same Court to grant it orders of stay of execution. It is a trite legal principle that a Court without jurisdiction cannot validly take a step in the proceedings.
16. Lastly, if the Respondent believes that its application is meritorious and is made in good faith, the legal avenue open to it was to appeal against the Rulings of 20 February 2025 and 27 February 2025, and not approach the Court it says lacked jurisdiction to review or set aside the impugned Rulings.
17. From the manner the Respondent has been filing application after application, with some of them going before different Courts, it may be argued that the Respondent is using legal technicalities to avoid fulfilling or meeting its legal obligations as determined by the Court.
18. The Court also 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.
19. To avoid the possibility of an embarrassing outcome if applications are made in different files, the Court directs that any further application should be filed in Misc Application No. E236 of 2024, V. Chokaa & Co. Advocates v Roy Hauliers, which is designated as the lead file.
20. 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

21. The Court orders:
 - i. The Motion dated 11 April 2025 is dismissed with costs to the Advocate.
 - ii. This Ruling/orders to apply in all the files enumerated in paragraph 1(iv) above.
 - iii. Miscellaneous Application No. E236 of 2024, V. Chokaa & Co. Advocates v Roy Hauliers is henceforth designated the lead file.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 10TH DAY OF JUNE 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Advocate V. Chokaa & Co. Advocates



For Respondent Waruiru, Karuku & Mwangale Advocates

Court Assistant Wangu

