



Amagove v Ultimate Manpower & General Supplies Limited (Employment and Labour Relations Cause E343 of 2017) [2025] KEELRC 2141 (KLR) (21 July 2025) (Ruling)

Neutral citation: [2025] KEELRC 2141 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E343 OF 2017**

BOM MANANI, J

JULY 21, 2025

BETWEEN

MILDRED AMAGOVE CLAIMANT

AND

ULTIMATE MANPOWER & GENERAL SUPPLIES LIMITED RESPONDENT

RULING

1. The Claimant has filed the application dated 27th January 2025 seeking the following orders:-
 - a. Spent.
 - b. That the court issues an order for committal to prison of Moses Tanui, the Respondent's Managing Director, for a period of six months or such other period as the court may determine on account of disobedience of the judgment and decree of the court.
 - c. That the Respondent be restrained from filing any pleadings or documents in the course until it purges the contempt.
 - d. That the court issues any other necessary orders to meet the ends of justice and to uphold its dignity.
 - e. That the court gives directions on costs of the application.
2. The application was filed pursuant to Order 40 rules 3 (1), (2) & (3) and Order 51 rule 1 of the Civil Procedure Rules and Sections 1A, 1B, 3A and 63 (c) & (e) of the *Civil Procedure Act* and all other enabling provisions of law. The Claimant contends that the court entered judgment in her favour for Ksh. 621,500 plus costs. She avers that the amount due to her, inclusive of costs, currently totals Ksh. 752,164.76.



3. The Claimant avers that the aforesaid judgment was delivered more than one year ago. As such, she avers that it is necessary for the court to issue a notice to the Judgment Debtor to show cause why execution should not be levied against it.
4. The Claimant avers that the Respondent's failure to settle the decree constitutes contempt of court. As such, she contends that it is necessary for the orders she seeks to issue.
5. The record shows that the application was served on the Respondent's Managing Director through WhatsApp. However, there has been no response to it. As such, the application is deemed as unopposed.

Analysis

6. The judgment which the Claimant wishes to enforce was delivered on 10th September 2021, more than one year ago. As such, it cannot be executed without taking out notice to show cause proceedings against the Respondent.
7. Further, proceedings to enforce court decrees and orders may only be undertaken under Orders 22 and 23 of the Civil Procedure Rules. As such, the provisions of law under which the Claimant has moved the court are of no relevance to the instant proceedings.
8. The Claimant ought to have moved the court under Order 22 rule 35 of the Civil Procedure Rules which provides as follows:-

“Where a decree is for the payment of money, the decree- holder may apply to the court for an order that:-

 - a. the judgment-debtor;
 - b. in the case of a corporation, any officer thereof; or
 - c. any other person, be orally examined as to whether any or what debts are owing to the judgment-debtor, and whether the judgment-debtor has any and what property or means of satisfying the decree, and the court may make an order for the attendance and examination of such judgment-debtor or officer, or other person, and for the production of any books or documents.”
9. Although the Claimant did not expressly quote this provision of law, she nevertheless indicated that her application was also premised on other applicable provisions of law. For this reason, I will consider the motion as competent.

Determination

10. Having regard to the foregoing, the court issues the following orders:-
 - a. The application dated 27th January 2025 is allowed to the extent that:-
 - i. The court hereby issues an order requiring the Managing Director of the Respondent to attend court on 31st July 2025 or such other date as will be specified to be orally examined as to whether any or what debts are owing to the judgment-debtor, and whether the judgment-debtor has any and what property or means of satisfying the decree herein.



- ii. The said officer to avail to the court and the Claimant's Advocates audited accounts for the Respondent for the last three financial years.
- iii. If the said officer fails to attend court as directed, warrants for his arrest to be issued by the court.
- b. This order to be served on the Respondent and its Managing Director physically and NOT through electronic means.
- c. The Claimant is granted costs of the application.

DATED, SIGNED AND DELIVERED ON THE 21ST JULY, 2025

B. O. M. MANANI

JUDGE

In the presence of:

..... for the Claimant

.....for the Respondent

ORDER

In light of the directions issued on 12th July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent, the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

B. O. M MANANI

