



**Miseda v Today Online Limited & 2 others; Standard Chartered Bank Limited  
(Garnishee) (Cause 704 of 2010) [2024] KEELRC 1522 (KLR) (14 June 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1522 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 704 OF 2010**

**J RIKA, J  
JUNE 14, 2024**

**BETWEEN**

**DAVID NELSON MISEDA ..... CLAIMANT**

**AND**

**TODAY ONLINE LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**MILTON CHOMBA NJANJA ..... 2<sup>ND</sup> RESPONDENT**

**LOISE WAHU NJANJA ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**STANDARD CHARTERED BANK LIMITED ..... GARNISHEE**

**RULING**

1. This is an old Claim, as suggested by its registration number in the title above.
2. It was concluded through an award of the Court, dated 20<sup>th</sup> May 2011. The Claimant was awarded against the 1<sup>st</sup> Respondent, the total sum of Kshs. 2,085,000, with no order on costs and interest.
3. The amount was to be paid within 45 days of the delivery of the award, but has remained unpaid to-date, 13 years after the award.
4. On 24<sup>th</sup> May 2012, the Industrial Court, declined an application by the Claimant to attach what he thought was the 1<sup>st</sup> Respondent's motor vehicle, finding that, " there is no evidence to show that the Judgment-Debtor has ceased to exist, and the Claimant/Decree-Holder should intensify search for and identification of the attachable assets and properties of the Judgment- Debtor. "
5. The Claimant has since then, not been able to execute his decree.



6. The 2<sup>nd</sup> and 3<sup>rd</sup> Respondents are directors of the 1<sup>st</sup> Respondent, who were added to the proceedings for purposes of execution.
7. The Respondents are alleged to have placed themselves outside the jurisdiction of the Court, and it is only after the Claimant traced them to Australia, and traced some of their assets in Kenya, that a series of applications have been presented before the Court, 13 years after the dispute was determined.
8. Two applications come up for ruling today. The first is dated 27<sup>th</sup> June 2023 filed by the Claimant, seeking that order nisi issued on 5<sup>th</sup> October 2022, is made absolute.
9. The second application is dated 15<sup>th</sup> August 2023, filed by the Respondents, asking the Court to stay its proceedings, pending hearing and determination of an intended appeal.
10. The Garnishee is only involved in the first application.
11. The Parties filed affidavits, in respect of their positions on both applications. They also rely on submissions, confirmed to have been filed and served, at the last mention before the Court, on 24<sup>th</sup> November 2023.

**The Court Finds: -**

12. The Court has no reason to decline the prayer sought by the Claimant, that the garnishee order nisi issued on 15<sup>th</sup> October 2022, is made absolute.
13. The Respondents have not satisfied the Court that its proceedings, which commenced in the year 2010, and ended in an award made in favour of the Claimant 13 years ago, in 2011, should be stayed pending any intended appeal.
14. The decree has been pending satisfaction for 13 years. The Respondents ceased operations in Kenya, placed themselves outside the jurisdiction of the Court, and have not made any attempt to satisfy the award or appeal against the award for 13 years. They did not respond to the Claim, when it was filed, heard and concluded years back. They flew out to Australia. The Court has no reason to delay partial execution, which garnishee proceedings are intended to achieve.

**It Is Ordered: -**

15. ....
  - a. The Claimant's application dated 27<sup>th</sup> June 2023 is allowed, and order of garnishee nisi, made absolute.
  - b. The Respondents' application dated 15<sup>th</sup> August 2023 seeking an order to stay proceedings pending an intended appeal, is declined.
  - c. Costs to the Claimant on both applications.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 14<sup>TH</sup> DAY OF JUNE 2024.**

**JAMES RIKA**

**JUDGE**

