



**Mwangi (Suing as the legal representative of John Karanja Mirichi
- Deceased) v Lijodi & another (Miscellaneous Civil Application
E079 of 2023) [2024] KEELRC 2489 (KLR) (16 October 2024) (Ruling)**

Neutral citation: [2024] KEELRC 2489 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
MISCELLANEOUS CIVIL APPLICATION E079 OF 2023
AN MWAURE, J
OCTOBER 16, 2024**

BETWEEN

**RAKELI WANJIRU MWANGI (SUING AS THE LEGAL REPRESENTATIVE OF
JOHN KARANJA MIRICHI - DECEASED) APPLICANT**

AND

MICHAEL MWALE LIJODI 1ST RESPONDENT

JEDHACOM LOGISTICS 2ND RESPONDENT

RULING

Mr. Kimani States:

1. The matter is coming for hearing application dated 30/9/2024 and the applicant was to deposit some Kshs 4,512,000/= in the joint account of the respective counsels.
2. The applicants have not been able to raise the amount. They pray for variation to raise half ($\frac{1}{2}$) amount – Kshs.2,256,000/= in a joint earning account. They pray the said order be varied.

Miss Daya States

3. We will object to that as stay of execution was subject to depositing the same. The applicants have not attempted to reach out to the respondent. The applicants are already selling their assets.

Mr. Kimani States

4. The selling of assets is to attempt to pay the decretal sum. We have proceeded to appeal and that is not mischief and lack of finances is not mischief.



Order:

5. The court had given the applicant 14 days to deposit Kshs 4,512,000/= in a joint interest earning account.
6. The applicants state they are unable to raise the funds but there is no evidence that they are not able to raise the same.
7. Anyhow in order to make progress the court will vary the order and order the stay of execution to be granted upon depositing of Kshs 3,000,000/= in a joint interest earning account by 5th November 2024 failing of which execution will proceed forthwith

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAKURU THIS 16TH DAY OF OCTOBER, 2024.

ANNA NGIBUINI MWAURE

JUDGE

Order

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of *the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

