



**Obura v Reliance Protection Services Limited (Cause 1440 of 2016)
[2023] KEELRC 1628 (KLR) (15 June 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1628 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1440 OF 2016
MN NDUMA, J
JUNE 15, 2023**

BETWEEN

KIZITO OPIYO OBURA CLAIMANT

AND

RELIANCE PROTECTION SERVICES LIMITED RESPONDENT

RULING

1. The defendant/Applicant filed Notice of Motion application dated 30th September, 2022 praying for an order in following terms:-
 1. Spent
 2. Spent
 3. Spent
 4. That the defendant be allowed to liquidate the decretal sum herein by an initial deposit of Kshs200,000/= and thereafter by equal monthly instalments of Kshs.50,000 until payment in full.
 5. That costs be in the cause.
2. Application is premised on grounds set out on the face of the notice of motion and buttressed in the affidavit of Patrick Kingoro Juma, the Managing Director of the defendant to wit, *ex parte* judgment was entered in favour of the claimant/respondent on 8th August, 2021. Application to set aside the judgment was dismissed with costs.
3. That the claimant has already obtained Warrants of Attachment and Sale and proclaimed the defendant's property.



4. That the defendant is desirous of liquidating the decretal sum in equal monthly instalments of Kshs.50,000 to be preceded by an initial deposit of Kshs.200,000.
5. That the company is facing harsh financial times and cannot be able to settle the decretal sum once.
6. That unless the Orders sought are granted, then the defendant shall suffer substantial loss since company operations shall be crippled.
7. The parties attempted to settle the matter out of Court and the Court at instance of the applicant ordered that the proposed initial deposit of Kshs.200,000 be paid forthwith. The Court had already granted interim orders staying execution of the decretal sum.
8. It is a fact that the claimants have a judgment in their favour, and are entitled to the fruits of their judgment unless good cause is shown why the decretal sum should not be paid forthwith failing which the Sale of attached goods to proceed. The claimant admitted receipt of the initial deposit of Kshs.200,000.
9. To-date, there is no evidence before Court of any deposit and/or payment of any further instalments by the applicant.
10. The applicant has not filed any appeal against the judgment of the Court having lost the application to set aside the judgment of the Court entered on 8th June, 2021.
11. Since judgment was entered, there has been passage of time of about two (2) years.
12. The applicant must demonstrate, that it has satisfied the requirements for grant of stay of execution of the Orders of the Court in the absence of any agreement and or consent recorded by the parties on the mode of liquidation of the decretal sum.
13. Despite lack of replying affidavit from the claimant/respondent, the Court is not satisfied that good cause has been shown by the applicant for the Court to exercise its discretion for stay of execution of the judgment nor to direct the applicant to pay the decretal sum in the manner proposed by the applicant
14. The claimant vide submissions made by Mr. Mwaure, advocate on 5th December, 2022 informed the Court that they were paid the initial deposit of Kshs.200,000.
15. That the balance of Kshs.883,765 to be paid in three (3) equal instalments.
16. The Court having considered the deposition and submissions by the parties makes the following orders:-
 - (a) The applicant having paid the initial deposit of Kshs.200,000 do pay the balance of Kshs.883,765.70 in three (3) equal monthly instalments, the first to be paid immediately upon receipt of this judgment.
 - (b) The applicant to pay expenses incurred by the Auctioneers in respect of the admitted attachment and costs of this application.
17. It is so ordered.

DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 15TH DAY OF JUNE, 2023.

Mathews N. Nduma

Judge

Appearances



M/s Angaya and Company Advocates for the applicant

M/s Mwaure & Mwaure Wahiga Advocates for the Claimant/Respondent

Mr. Ekale – Court Assistant

