



Kingdom Bank Limited (Formerly Jamii Bora Bank Limited) v Nyambuka & another (Employment and Labour Relations Cause 272 of 2020) [2023] KEELRC 2045 (KLR) (24 August 2023) (Ruling)

Neutral citation: [2023] KEELRC 2045 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE 272 OF 2020**

**MN NDUMA, J
AUGUST 24, 2023**

BETWEEN

KINGDOM BANK LIMITED (FORMERLY JAMII BORA BANK LIMITED) APPLICANT

AND

**STEPHEN WILLIAMSON NYAMBUKA 1ST RESPONDENT
ANFIELD AUCTIONEERS 2ND RESPONDENT**

RULING

1. The Respondent/Applicant filed application dated 5/10/2022 seeking an order in the following terms:-
 1. Spent
 2. Spent
 3. That pending hearing and determination of this application, this Honourable Court be pleased to stay execution of the warrants of attachment issued on October 3, 2022 together with the proclamation, attachment and/or sale of the applicant’s movable property in the 2nd Respondent’s proclamation dated October 4, 2022.
 4. That this Honourable Court be pleased to set aside the warrants of attachment issued on October 3, 2022 and/or quash the 2nd Respondent’s proclamation notices of October 4, 2022.



5. That this Honourable Court be pleased to make a finding or issue a declaration that the Decretal sum pursuant to the Judgment of July 21, 2022 together with legal costs as being fully satisfied and or paid by the Applicant.
 6. That the costs of this application be borne by the espondents.
2. The application is premised on grounds (a) to (h) in the notice of motion and buttressed in the supporting affidavit of Jackson Kimathi, the Head of Legal Services of the applicant, the butt of which is that the warrants of attachment dated 3/10/2022 against the applicant's movable property and the proclamation by the 2nd respondent dated 4/10/2022 is unlawful and illegal since the applicant has fully satisfied the judgment of the Court dated 21/7/2022.
 3. That the 1st respondent wishes to unlawfully, and illegally enrich himself to the loss and detriment of the applicant. That the application be granted.
 4. That the decretal sum of Kshs 840,000 was paid directly to the 1st respondent's bank account on 12/9/2022 and in addition the agreed legal costs of Kshs 190,200 was paid by cheque dated 12/9/2022 to the 1st respondent's counsel. The evidence of the payments is attached to the supporting affidavit of the applicant.
 5. In the replying affidavit of the 1st respondent dated December 22, 2023, is deposed that the applicant has failed to settle the decretal sum including costs of counsel despite request, hence the extraction of warrants of attachment and proclamation of movable property of the Applicant.
 6. In the response to the replying affidavit, the applicant filed supplementary affidavit dated 25/4/2023 reiterating that the decretal sum and costs have been fully settled and that the application be granted as prayed. Both parties filed written submissions which the Court has carefully considered.
 7. The Court is satisfied that indeed the decretal sum plus costs of counsel have been fully paid by the applicant.
 8. In terms of Section 49(2) of the *Employment Act, 2007*, decretal sum paid pursuant to judgment of Court for compensation of an employee is subject to payment of statutory deductions.
 9. The Court is satisfied that the applicant has fully paid the decretal sum including costs of counsel less statutory deductions.
 10. Accordingly, the application has merit and the Court allows the same and makes the following final orders:-
 - (a) The Warrant of attachment issued on October 3, 2022 is set aside and the proclamation notices dated October 4, 2022 against movable property of the applicant is quashed.
 - (b) The Decretal sum pursuant to the judgment of July 21, 2022 together with legal costs have been fully satisfied.
 - (c) Costs of this application be paid by the 1st respondent.

DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 24TH DAY OF AUGUST, 2023.

MATHEWS N. NDUMA

JUDGE

Appearances



Mr. Muchiri for Applicant

M/s Kinoti for 1st Respondent

Ekale: Court Assistant

