



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NAIROBI
CAUSE NUMBER 1254 OF 2014

BETWEEN

1. HASSAN EDIN KONO
2. ISACKO HARSAMA
3. ABDULLAHI ISACK AMWARU..... CLAIMANTS

VERSUS

RESOURCE PROTECTION LIMITED..... RESPONDENT

RULING

1. The Claimants obtained Judgment against the Respondent on 12th July 2019.

2. Judgments was for: -

- Notice pay... Kshs. 124,586.
- Compensation...Kshs. 747,216.
- Certificates of Service.
- Interest on Notice Pay at 14% per annum, from 26th April 2013 till payment in full.
- Interest on Compensation at 14% per annum from the date of Judgment till payment in full.

3. The Claimants have obtained warrants of attachment of movable property. The decretal sum is quoted at a perplexing sum of Kshs. 4,127,247.

4. The Respondent disputes the sum. It has filed an Application dated 6th September 2021, asking the Court to stay execution of the warrants and quash proclamation of Respondent's movable properties. The Application is founded on the Affidavit of the Respondent's Advocate, sworn on 6th September 2021. The Respondent states that the sum indicated on the warrants and the proclamation is defective, unlawful and grossly exaggerated. The Respondent wrote to the Auctioneers instructed by the Claimants, but no correction was done.

The Court Finds: -

5. The sum of Kshs. 4,127,247 in the warrants and the proclamation is not consistent with the decree on record.

6. An approximation carried out by the Court below, does not support the sum of Kshs.4,127,247.

7. Notice at Kshs. 124,586 with interest at 14% per annum, from 2013 to 2021 when the warrants were obtained, amounts to [Kshs. 124,586 + 139,536] = Kshs. 264,122.

8. Compensation at Kshs. 747,216 with interest at 14% per annum, from 2019 to 2021 when the warrants were obtained, amounts to [Kshs. 747,216 + 209,220] = Kshs.956,436.

9. The record shows costs were taxed and allowed at Kshs. 292,385 on 3rd September 2020.

10. The total above, as of the date the warrants were obtained, would be Kshs. 1,512,943. This is an approximation by the Court in preparing

this Ruling, and not the exact figure the Parties should adopt, in moving forward.

11. This sum is closer to the sum conceded at paragraph 8, of the Respondent's Affidavit, at Kshs. 1,443, 174.

12. The sum advanced by the Claimants in their warrants, at Kshs. 4,127,247 is way out of line. It cannot be sustained.

13. The Claimants should not be allowed to continue obfuscating settlement, by distorting the decretal sums payable. It is noted that the Respondent had commenced paying the decretal sum. It would also not be in the interest of justice to maintain the orders on interest.

IT IS ORDERED: -

a. The warrants of attachment and proclamation based on a sum of Kshs. 4,127, 247 are recalled and set aside.

b. Judgment is reviewed and varied, to the effect that Notice Pay and Compensation awarded, shall cease to attract further interest, with effect from the date of the warrants, 18th August 2021.

c. The Claimants are free to reapply, based on the correct sum of decretal sum.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 11TH DAY OF FEBRUARY 2022.

JAMES RIKA

JUDGE