



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 985 OF 2014

GRACE AKINYI AHAWO.....CLAIMANT

v

KENYA AIRPORTS AUTHORITY.....RESPONDENT

AND

NIC BANK.....GARNISHEE

RULING NO. 4

1. The first Ruling in this Cause was on 30 October 2017 while the second Ruling was on 30 October 2018. The third Ruling was delivered on 9 April 2019.
2. Before Court for determination now is an application dated 11 June 2019 by the Claimant/decreed holder seeking orders
 1. ...
 2. ...
3. THAT this Honourable Court be pleased to issue an order absolute against the Garnishee directing that all money held in the account by the Garnishee in the judgment debtor's name Kenya Airport Authority Account No. 10012606024 be attached to clear the decretal balance of Kshs 262,277 plus the garnishee cost of Kshs 15,000 making a total of Kshs 277,277.
3. The grounds advanced in support of the application were that the Court had on 9 April 2019 directed the Respondent to correct an error it had made while making payments to the Claimants advocate within 30 days but it had failed to do so and that the Court had also directed the Respondent to pay the Claimants advocate monies erroneously withheld as withholding tax.
4. In its replying affidavit sworn by the advocate on record, the Respondent maintained that the Claimants dues had been paid Kshs 566,653/- in full as ascertained by a tax consultant it had retained.
5. In its Ruling of 9 April 2019, the Court expressly held that it was erroneous for the Respondent to retain withholding tax of Kshs 29,794/- and Kshs 35,752/-.
6. The Court directed the Respondent to rectify the error and pay the sums to the Claimant within 30 days.
7. The Respondent has not demonstrated that it rectified the error after the Court order, or that it made payments for the sum of Kshs 65,546/- withheld taxes after 9 April 2019.
8. Before concluding, it would be remiss for the Court not to observe that this application should not have been necessary if the Respondent took Court orders seriously.
9. The Court will therefore allow orders 2 and 3 of the motion, but only to the extent of Kshs 80,546/- which includes Kshs 15,000/- being costs of the instant application.
10. Orders to take effect after expiry of 5 days from today, if the Respondent does not make payment.

Delivered, dated and signed in Nairobi on this 31st day of January 2020.

Radido Stephen

Judge

Appearances

For applicant Mr. Ojienda instructed by Ojienda & Co. Advocates

For Respondent Ms. Kanyiri instructed by Federation of Kenya Employers

Court Assistant Judy Maina