



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**

**CAUSE NO. 46 OF 2019**

**JOSHUA O. OGALO.....CLAIMANT**

**VERSUS**

**KENYA NATIONAL UNION OF TEACHERS (KNUT).....1<sup>ST</sup> RESPONDENT**

**KISUMU EAST BRANCH.....2<sup>ND</sup> RESPONDENT**

**KENYA COMMERCIAL BANK LIMITED**

**(MOI AVENUE BRANCH).....1<sup>ST</sup> GARNISHEE**

**KISUMU TEACHERS SAVINGS AND CREDIT**

**CO-OPERATIVE SOCIETY.....2<sup>ND</sup> GARNISHEE**

**RULING**

1. The Claimant/applicant prays for a Garnishee Order attaching Kshs. 1,141,003.05 together with costs from account Number **1107635463** Kenya Commercial Bank, (KCB) Moi Avenue Branch in the name of Kenya National Union of Teachers, and/or Account number 11609 held at Kisumu Teachers Savings and Credit Co-operative Society in the name of Kenya National Union of Teachers, Kisumu East Branch for payment to the Claimants Account Number 0100323625500 held at Standard Bank Limited Kisumu Branch.

2. Garnishee Order Nisi was granted and now the applicant prays for Garnishee Order absolute. The application is opposed vide a replying affidavit of Allan Kawa, the General Manager of the 2nd Garnishee, Kisumu Teachers Savings and Credit Co-operative Society in which it states that as at 18/6/2020, the account sought to be attached only held Kshs.975.98 and issuance of a garnishee Order absolute as requested for a sum of Kshs.141,00305 would serve no useful purpose as it would be incapable of being fulfilled.

3. The 1st Garnishee Kenya Commercial Bank limited has not replied to the application. The Court finds the application against the 1st Garnishee meritorious and grants the same as prayed. The application against the 2nd Garnishee is dismissed.

4. In the final analysis the Court issues an Order in the following terms:-

**(a) A Garnishee Order absolute attaching Kshs. 1,141,003.05 together with costs from account No. 1107635463, Kenya Commercial Bank (KCB) Moi Avenue Branch in the name of Kenya National Union of Teachers for payment to the Claimant's Account No.0100323625500 held at the Standard Bank Limited Kisumu branch is issued.**

**(b) Costs of the application including costs incurred by the 1st Garnishee are awarded.**

**Dated and delivered at Nairobi this 27<sup>th</sup> day of November, 2020**

**MATHEWS N. NDUMA**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting court of operations due the COVID-19 pandemic and in light of the directions issued by his

Lordship, the Chief Justice on 15<sup>th</sup> March 2020, this ruling has been delivered to the parties online with their consent. 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 18 of the Civil 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.

**MATHEWS N. NDUMA**

**JUDGE**

**Appearances**

**Mr. Rakoro for Claimant/Applicant**

**Mr. Sigei for respondent**

**Chrispo – Court Clerk**