



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA
AT NAIROBI

CAUSE NUMBER 293 OF 2015

EDWARD OWITL.....CLAIMANT

VERSUS

SALAMA HOTEL.....RESPONDENT

RULING

1. The objector herein through an application dated 9th August, 2018 sought the lifting of the attachment of goods and or property pursuant to the decree of this court. The objector states that it is not the judgment debtor although he is carrying out business in the same premises where the judgment debtor previously carried out business. In support of the application, the objector exhibited certificate of incorporation (annexture DM1) which clearly showed it was an entity distinct and separate from the judgment debtor.
2. The decree-holder has however contended that the judgment debtor and the objector were one and the same because they were in the premises as the judgment debtor and carrying out the same type of business. However the respondent in this matter is Salama Hotel Limited while the certificate registration annexed to the application dated 23rd February, 2017 which the decree holder referred to was in respect of New Salama Annex. The connection between the two entities has not been properly established before the court to enable them to be deemed as one and the same.
3. The court is therefore persuaded that the objector has reasonably made out a case for the lifting of the attachment. The application dated 9th August, 2018 is therefore allowed with no order as to costs.
4. The court will however direct that the firm of Mungai Kalande cease to act for any objector in this matter since they were the advocates on record for the judgment debtor. This is in order to avoid possible conflict of interest.
5. It is so ordered.

Dated at Nairobi this 25th day of January, 2019

Abuodha Jorum Nelson

Judge

Delivered this 25th day of January, 2019

Abuodha Jorum Nelson

Judge

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge