



**Kinyua & Maingi Advocates v Trident Insurance Company Limited;
Safaricom PLC (Garnishee) (Miscellaneous Civil Application
E335 of 2023) [2025] KEHC 1107 (KLR) (26 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1107 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CIVIL APPLICATION E335 OF 2023
PN GICHOHI, J
FEBRUARY 26, 2025**

BETWEEN

KINYUA & MAINGI ADVOCATES APPLICANT

AND

TRIDENT INSURANCE COMPANY LIMITED RESPONDENT

AND

SAFARICOM PLC GARNISHEE

RULING

1. The Applicant moved this Court, under a certificate of urgency, vide a Notice of Motion dated 8th January, 2025 pursuant to Sections 1 A, 1B and 3A *Civil Procedure Act*, Order 51 Rule 1 and 3, Order 22 Rule 1, Rule 11 and Order 23 Rules 1 and 10 of the Civil Procedure Rules Cap 21 Laws of Kenya seeking Orders:-
 - a. Spent.
 - b. Spent.
 - c. That this Honourable Court be pleased to issue Garnishee Order Nisi against the Garnishee, Safaricom Limited to attach all monies due and belonging to Trident Insurance Co. Limited in her credit or on her Mpesa Pay Bill Number 985850 and /or in any other Pay Bill or Till Number or so much of it as is sufficient to satisfy the decree of Kshs. 201, 530. 40 only together with costs of this Garnishee proceedings amounting Kshs. 30,000/= totalling to Kshs. 231, 530.40 herein which amounts remain due and owing.
 - d. That the Garnishee, Safaricom Limited, shall upon being served with Garnishee Order Nisi by this Honourable Court, notify the Court in writing of what sum is held in the said Mpesa Pay



Bill Number 985850 and due to the Judgment Debtor Trident Insurance Co. Limited, and if the Garnishee does not dispute the debt, she shall pay to M/S Kinyua & Maingi Advocates the said sum of Kshs. 201,530. 40 plus costs of this Garnishee application amounting Kshs. 30,000/=.

- e. That if the Garnishee, Safaricom Limited disputes holding funds and monies to credit of Trident Insurance Co. Limited in Mpesa Pay Bill Number 985850 then Garnishee be ordered to appear and state the same during hearing of the Applicant's application.
 - f. That the Garnishee Order Nisi be made absolute.
 - g. That the costs of this application be provided for.
2. The application is based on grounds on the face of the application and supported by the Affidavit sworn by Njoki Kinyua Advocate on 8th January 2025. She depones that on 3/12/2024, the Applicant obtained a decree against the Respondent for Kshs. 210, 530. 40 but the Respondent /judgment debtor has ignored /refused to settle the decree herein , hence the need to attach its account held by the Garnishee.
 3. He contends that unless the Garnishee orders sought are issued forthwith , the Respondent shall withdraw the monies held in its account stated herein to defeat the ends of justice.
 4. Cerere Kihoro legal Counsel at Safaricom PLC (Garnishee) swore a Replying Affidavit on 14th January 2025 stating that upon perusal of the application and obtaining clarification from Messrs Prof. Musili Wambua & Co Advocates for Garnishee, he confirmed that indeed the Respondent judgment debtor holds Paybill Number 985850.
 5. After being served with the Garnishee Order Nisi, he confirmed that the Respondent's Paybill Number 985850 had sufficient funds to satisfy the whole decretal sum of Kenya Shillings Two Hundred and Thirty -One Thousand Five Hundred and Thirty and Forty Cents (Kshs. 231, 530.40).
 6. Consequently, the Garnishee set aside the sum of Kshs, 231, 530.40 from the Respondent's Paybill Number 985850 and deposited the same in a Special Utility Account .
 7. He therefore stated that he is ready and willing to remit the decretal sum together with costs of Kenya Shillings Fifty- Nine Thousand Nine Hundred and Eighty-Seven and Twenty -Six Cents (Kshs. 59,987. 26) and that the applicable transaction costs be awarded by this Court.

Determination

8. Though duly served, the Respondent did not file any response to the application and did not attend Court.
9. After hearing the Applicant and the Garnishee, this Court confirms that a Decree arose from the Ruling delivered by this Court on 6th November 2024 whereby judgment was entered in favour of the Applicant as against the Respondent but remains unsettled.
10. It is also confirmed by the Garnishee that the Respondent/Judgment Debtor has sufficient funds to satisfy the decree herein and that the Garnishee has secured the said sum to ensure compliance with Garnishee Order Nisi .
11. It is further confirmed that a Garnishee Order Nisi was issued at the first instance on 10th January 2025 and that the Garnishee has no objection to the Garnishee said Order being made absolute as sought by the Applicant save that he prays that the costs be borne by the Respondent.



12. In the circumstances, the Application dated 8th January, 2025 is merited and allowed in the following terms:-
1. The Garnishee Order Nisi issued on 10th January 2025 be and is hereby made Garnishee Order Absolute.
 2. The Garnishee Order Absolute be served on the Garnishee to release the sum of Kshs. 231, 530.40 to the Applicant forthwith.
 3. The costs of this application be borne by the Respondent/Judgment -Debtor.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 26TH DAY OF FEBRUARY, 2025.

PATRICIA GICHOHI

JUDGE

In the presence of:

Ms Kinyua for Applicant

Mr. Adero for Ms Matata for Garnishee

N/A for Respondent

Ruto, Court Assistant

