



Africa Energy Development Corporation v Chevron Africa Limited (Civil Appeal E042 of 2023) [2025] KEHC 11383 (KLR) (Civ) (31 July 2025) (Ruling)

Neutral citation: [2025] KEHC 11383 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E042 OF 2023

AC MRIMA, J

JULY 31, 2025

BETWEEN

AFRICA ENERGY DEVELOPMENT CORPORATION JUDGMENT DEBTOR

AND

CHEVRON AFRICA LIMITED DECREE HOLDER

RULING

1. The decree holder in this matter, Chevron Africa Limited, filed an application by way of a Notice of Motion dated 12th March 2025 against the judgment-debtor herein, Africa Energy Development Corporation, for the following orders: -
 1. Spent
 2. That pending the hearing and determination of this application, summons do issue compelling Directors of the Respondent Company Zohrab Mawani and Jared Keburi to attend court on such date as may be ordered or allocated, to be orally examined on oath as to the Respondent's means and assets.
 3. That this honourable court be pleased to disregard, lift, and/or pierce the corporate entity of Africa Energy Development Corporation and order the Directors Zohrab Mawani and Jared Keburi to immediately settle the Decretal sum of Kshs.1,800,000/= with costs and interest accrued from the time of judgement un till now and costs and interests of the Magistrate's court.
 4. That the applicant be granted leave to execute the Decree herein against the said Directors of the Respondent herein personally, in default of payment of the aforesaid decretal amount.
 5. That this honourable Court be pleased to grant any other order that it may deem fit.



6. That the costs of this application be borne by the Respondent and/or its Directors Zohrab Mawani and Jared Keburi.
2. The application was supported by the grounds on the face of it, the supporting and supplementary affidavits sworn on 12th March 2025 and 25th March 2025 respectively by one Andrew Lomosi, the Decree-Holder's Managing Director alongside written submissions.
3. The application was strenuously opposed by the judgment debtor through a Replying affidavit sworn on 20th March 2025 by its sole Director one Zohrab Mawani.
4. Pursuant to the directions of this Court, the application was canvassed by way of written submissions. This Court has had the liberty to peruse and carefully consider the written submissions filed by both parties and the several decisions cited therein. The main issue that presents itself for determination is whether the application is merited.
5. Order 22 Rule 35 of the Civil Procedure Rules provides as follows: -
 35. Examination of judgment-debtor as to his property [Order 22, rule 35] Where a decree is for the payment of money, the decree- holder may apply to the Court for an order that-
 - a. the judgment-debtor;
 - b. in the case of a corporation, any officer thereof; or
 - (c) any other person,

be orally examined as to whether any or what debts are owing to the judgment-debtor, and whether the judgment-debtor has any and what property or means of satisfying the decree, and the court may make an order for the attendance and examination of such judgment-debtor or officer, or other person, and for the production of any books or documents.
6. The above provision clearly establishes two parameters within which a judgment debtor may be summoned for examination in Court. They are to determine whether there are any or what debts are owing to the judgment-debtor and whether the judgment debtor has any and what property or means of satisfying the decree. The provision does not, therefore, provide for the lifting of a company veil. An order for lifting of the veil usually comes at the tail-end and upon satisfying well established legal principles including that there is no any other way in which the judgment debtor may satisfy the decree. Therefore, the judgment debtor is jumping the gun. Its submissions are, hence, premature.
7. The foregoing was also discussed and buttressed in *Tropical Wood Limited v Samilis International Investments* [2017] eKLR as follows: -

.... Two things emerge from the above proposition. One, the power of the Court to summon a person to attend and be examined under Order 22 Rule 35 is circumscribed within the purpose set out in the Rule. That is as to whether any or what debts are owing to the judgment debtor, and whether the judgment debtor has any and what property or means of satisfying the decree.

I, therefore, take the view that, as long as the Applicant has shown that the Respondent is in a position to provide information in the nature of discovery....as to whether any or what debts are owing to the judgment debtor, and whether the judgment debtor has any and what



property or means of satisfying the decree, the Court should summon the person to attend and be examined in relation to the purpose stated in the Rule.

8. In this matter, there is no dispute that the Decree-holder/Applicant has an unsatisfied decree to the tune of Kshs.1,800,000/= plus costs and interests against the judgment-debtor. The Applicant is, however, apprehensive that it is unable to execute the said decree for reasons that the judgment-debtor could not be traced. It is for this reason that the Applicant moved this Court to have the judgment-debtor's Director[s] be examined within the confines of Order 22 Rule 35 of the Civil Procedure Rules. To that end, the application is partially successful and the rest of the prayers sought cannot be dealt with at this point in time.
9. Having said as much, this Court is persuaded that the decree holder has made out a case to warrant the examination of the judgment-debtor's Director one Mr. Zohrab Mawani and one Mr. Jared Gisemba Keburi who is described as the judgment-debtor's local representative moreso since the judgment-debtor seems to be a foreign company. The two persons no doubt fall within Order 22 Rule 35[b] and [c] of the Civil Procedure Rules.
10. It is on the above basis and discussion that this Court hereby makes the following orders in respect to the Notice of Motion dated 12th March 2025: -
 - (a) Summons shall issue to Mr. Zohrab Mawani and Mr. Jared Gisemba Keburi to attend Court on a date to issue to be examined in line with Order 22 Rule 35 of the Civil Procedure Rules.
 - (b) Prayers 3, 4, 5 and 6 of the Notice of Motion are hereby held in abeyance pending further orders and or directions.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 31ST DAY OF JULY 2025.

A. C. MRIMA

JUDGE

Ruling virtually delivered in the presence of:

Mr. Aliungo, Learned Counsel for the Appellant.

Miss Gichara, Learned Counsel for the Respondent.

Amina/Michael – Court Assistants.

