



**New Age Associates v Mantic Africa Limited (Commercial Case E004 of 2021)
[2025] KEHC 12481 (KLR) (Commercial and Tax) (1 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12481 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL CASE E004 OF 2021
JWW MONG'ARE, J
SEPTEMBER 1, 2025**

BETWEEN

NEW AGE ASSOCIATES PLAINTIFF

AND

MANTIC AFRICA LIMITED DEFENDANT

RULING

1. On 18th March 2025 the Plaintiff who had a partial judgment on the present matter filed a Notice of Withdrawal and hence rendering the Garnishee application as spent. Upon marking of the whole suit as spent, parties raised an issue as to whether interest was payable on the now withdrawn portion of the claim to which the Defendant was opposed.
2. The court directed the parties to file brief submissions on the issue and reserved the issue for determination. Both parties have filed written submissions which I have carefully considered.
3. I note from the arguments put forth by the Plaintiff that the suit before this court was framed as follows:-
 - a. The sum of USD 225,000 being the amount due.
 - b. Interest on the said sum at court rates from the date of filing suit until payment in full.
 - c. Costs of the suit; and
 - d. Any other relief or further relief this Honourable Court may deem just and appropriate.



4. I also further note that the Honourable Court pursuant to an application dated 8th November 2021 issued the following ruling:-

“the application before the court is the one dated 8th November 2021 for judgment on admission against the Defendant. Counsel for the Defendant admits that the Defendant owes the Plaintiff USD 134,000. Accordingly, judgment is entered for the Plaintiff against the Defendant in the sum of USD 134,000.00 together with costs of the application. The balance of the claim and the issue of interest shall proceed to trial.”

5. On 11th March 2025, the plaintiff filed a notice of withdrawal and discontinuance. The said notice was filed under Order 25 Rule 1 of the *Civil Procedure Rules*. The same was framed as follows: -

“Take Notice that the Plaintiff wholly withdraws and discontinues the balance of the claim as set out in the amended Plaint dated 24th February 2021 and that was not determined by Honourable Justice Majanja in the judgment delivered on 25th November 2021, in which judgment on admission was entered for USD 134,000 with costs of the application.

The Plaintiff prays for a decree to issue for the sum of USD 134,000.00 together with costs of the suit and interest at court rates on the principal sum from the date of filing the suit until payment in full.”

6. The notice of withdrawal and discontinuance was adopted as an order of this court on 18th March 2025 and the Garnishee discharged. Order 25 Rule 1 provides as follows:-

“Order 25 - Withdrawal, Discontinuance And Adjustment Of Suits- 1. Withdrawal by plaintiff [Order 25, rule 1]- At any time before the setting down of the suit for hearing the plaintiff may by notice in writing, which shall be served on all parties, wholly discontinue his suit against all or any of the defendants or may withdraw any part of his claim, and such discontinuance or withdrawal shall not be a defence to any subsequent action.”

7. I have looked at the ruling by the late Honourable Justice Majanja in respect of the judgment on admission. I note from a reading of the said ruling, the court stated thus; - “The balance of the claim and the issue of interest shall proceed to trial.” It is therefore clear in my mind that the court did not make a determination as to whether the Plaintiff was entitled to interest on the admitted portion of the claim. The court reserved this for determination upon production of evidence by the parties during the trial to determine the balance of the sum claimed. I find no ambiguity in the said ruling. The Plaintiff on his own motion withdrew the suit and therefore abandoned the rest of the issues therein which was a determination of interest and costs of the suit.

8. I find therefore that the Plaintiff is not entitled to interest on the admitted sum of USD 134,000.00. I further also find that the Plaintiff is not entitled to an award of costs of the suit. These two issues were to be determined after a trial which did not take place as the suit was withdrawn.

DATED SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 1ST DAY OF SEPTEMBER 2025

.....
J.W.W. MONGARE

JUDGE

In The Presence Of



Mr. Kimani holding brief for Mr. Ochieng for the Plaintiff.

Mr. Mwangi for the Defendant.

Amos- Court Assistant

