



**Owuor v Agogo (Miscellaneous Application E050 of 2022)
[2024] KEHC 1751 (KLR) (Civ) (22 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1751 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
MISCELLANEOUS APPLICATION E050 OF 2022
JN MULWA, J
FEBRUARY 22, 2024**

BETWEEN

GEORGE GODFREY OPIYO OWUOR PLAINTIFF

AND

MOSES OKADO AGOGO DEFENDANT

RULING

1. By an Application dated 10/01/2022, the Applicant George Godfrey Opiyo Owour prays that the Judgment made by the HIV and AIDS Tribunal in HAT cause No 27 of 2019 dated 7/05/2021 be adopted and enforced as a decree of the court. By the said judgment the Applicant was awarded Kshs 900,000/= and costs as stated in his Supporting Affidavit sworn on 10/01/2022 wherein the proceedings of the Tribunal are annexed as well as the judgment as follows: -
 1. Judgment is hereby entered in favour of the claimant against the Respondent in the sum of Kshs 900,000/= by way of general damages.
 2. The above sum shall attract interest at court rates from the date of judgment until payment in full.
 3. The Respondent is hereby restrained from further disclosing the claimant's status discrimination, stigmatization and or harassing the claimant.
 4. Costs are awarded to the claimant.

Upon delivery of the judgment the Respondent was granted 45 days stay of execution. That was on 7/05/2021.



2. In opposition to the Application, the Respondent, acting in person filed a Replying Affidavit and what he calls a statement of defense. The Replying Affidavit is not sworn in the strict meaning of an affidavit as provided under Order 19 of the civil procedure Rules.
3. I have considered the “Replying Affidavit.” He admits the contents of the Tribunal’s Judgment but states that he is jobless, a peasant farmer and the amount awarded is far beyond his living standards and income hence is impossible for him to pay the decretal sum.
4. He continues in a veiled manner to attempt to “appeal” against the judgment as having been unreasonable for want of proof by the claimant of the claim as well as the award of damages that he claims to be excessive. He therefore seeks dismissal of the Application.
5. In the first instance, the court notes that the Tribunal’s judgment has not been set aside, reviewed or appealed against. It is therefore intact.
6. The *HIV and AIDs Prevention and Control Act* was enacted in 2006 and revised in 2012. It provides for the prevention, management and control of HIV and AIDS and further provides for the promotion of public health, treatment, counseling support and care for infected persons, as stated at Section 3. Its jurisdiction is stated at Section 26.
7. Execution of a judgment of the Tribunal is the preserve of the High Court. Having noted that there is no challenge mounted against the adoption and enforcement of the judgment by the Respondent in HAT Cause No 27 of 2019 delivered on 7/05/2021, the Application dated 10/01/2022 as prayed with no orders on costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22ND DAY OF FEBRUARY, 2024.

J. N. MULWA

JUDGE

