



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISUMU

CIVIL APPEAL NO. 154 OF 2000

DR. MANASE ONYIMBI.....DECREE HOLDER

VERSUS

THE DIRECTOR KENYA MEDICAL RESEARCH INSTITUTE (KEMRI).....JUDGMENT DEBTOR

RULING

Before me is a task that is not normally undertaken by a Judge. It is the task of determining the exact sum which the Judgement Debtor, **THE DIRECTOR KENYA MEDICAL RESEARCH INSTITUTE (KEMRI)** owes to the Decree Holder, **DR. MANASE ONYIMBI**.

1. Such a task is ordinarily undertaken by persons who are far more well-versed in carrying out calculations.
2. By his calculations, the Decree Holder asserts that he is owed Kshs 2,677,221, which is made up as follows;

Principal Amount Kshs 704,532

Accrued Interest

@ 14% per annum,

between 3rd May 2011

and 15th June 2020 Kshs 1,972,689

SUB-TOTALKshs 2,677,221

LESS [paid]Kshs 100,000

BALANCE DUE Kshs 2,577,221

3. By a Ruling dated 21st February 2019, the Court of Appeal directed that;

“..... the sum awarded by the Judgement dated 15th October, 2010 shall carry interest at 14% p.a from the date of the suit which is 15th June 2000.”

4. The Court of Appeal further directed that the Deputy Registrar of the High Court should determine the payments already made to the Applicant, and make appropriate adjustments for accrued interest.

5. According to the Judgment Debtor, the figures computed by the Decree Holder were grossly exaggerated. As far as the Judgment Debtor was concerned, the outstanding balance was Kshs 147,357.20, which was made up as follows;

1. Principal Amount Kshs 92,752.60

2. Interest @ 14% w.e.f

15/06/2000 to

18/10/2011 Kshs 147,357.20

3. Costs at Court of

Appeal Kshs 3,710.05

SUB-TOTAL Kshs 264,819.80

LESS Paid Kshs 117,462.65

BALANCE

Outstanding Kshs 147,357.20

6. In the court file there is a Decree duly signed by the learned Deputy Registrar of the High Court; it is dated 4th May 2011.

7. The Decree sets out the sums payable to the Plaintiff as follows;

“Principal Amount Kshs 141,152.00

Interest Kshs 497,144.00

Decretal Amount Kshs 638,296.00

DecreeKshs 150.00

Certificate of costsKshs 100.00

TOTAL Kshs 704,532.00”

8. It is evident from the Decree that the single largest component of the decretal amount is on account of Interest.

9. The Decree specified that the principal amount was Kshs 141,152/= . Therefore, when the Decree Holder commences his computation on the basis of the sum of Kshs 704,532/= being the principal amount, he acted in error. I so hold because out of that sum of Kshs 704,532/=, there was a sum of Kshs 497,144/=which was on account of Interest.

10. On 7th November 2011 the Decree Holder was paid Kshs 117,462.65. The said payment was made up as follows;

(a) Net Salary Kshs 92,752.60

(b) Costs in the Court

of Appeal Kshs 3,710.05

(c) Costs in the High

Court Kshs 21,000.00

TOTAL 117,462.65

11. As the costs, both in the Court of Appeal and in the High Court, were not reflecting the balance of Kshs 704,532/=, the sums attributable thereto shall be deducted from the payment towards the decretal amount.

12. In effect, the Decree Holder paid Kshs 92,752.60, leaving a balance of Kshs 611,779.40.

13. As the Court of Appeal had awarded Simple Interest at 14% per annum, it implies that it was only the principal amount that would attract interest.

14. If interest was computed on the whole amount of Kshs 704,532/= that would imply that the said Interest was not only compounded, but also that the costs were also attracting Interest.

15. As the Court of Appeal had awarded Interest on the principal sum, it would be an error to compute interest in respect of costs.

16. By my calculations, the balance of the principal amount which was outstanding after the Judgement Debtor paid Kshs 92,752.60, is Kshs 48,399.40.

17. It is that sum of Kshs 48,399.40 that would continue to attract interest at 14% per annum, from November 2011, until the Judgment Debtor paid off the balance. By my calculations, the Interest earned until now is Kshs 67,759.16, which is made up as follows;

$$48,399.40 \times 14 : 100 \times 10 = 67,759.16.$$

18. In order to get the final outstanding amount, the Interest earned would be added to the sum of Kshs 611,779.40, which was left after the Decree Holder remitted Kshs 117,462.65 in November 2011.

19. Accordingly, the balance outstanding is now Kshs 679,544.56, which is made up as follows;

1. Sums payable as per the

Decree dated 4th May 2011 ... Kshs 704,532.00

2. Interest @ 14% on

Kshs 48,399.40 from

November 2011 until

2021 Kshs 67,759.16

SUB-TOTAL 772,297.16

LESS Paid Kshs 92,752.60

Balance *Kshs 679,544.56*

20. It is also noted that on 24th March 2021, the Court awarded costs to the Decree Holder, in the sum of Kshs 7,500/=. If that sum has not yet been paid, the Judgment Debtor must pay it, in addition to the sum of Kshs 679,544.56, making a grand total of Kshs 687,044.56.

21. It is so ordered.

DATED, SIGNED and DELIVERED at KISUMU

This 27th day of May 2021

FRED A. OCHIENG

JUDGE



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