



**Masha v Kenya Wildlife Service; Standard Chartered Bank & another (Garnishee)
(Tribunal Appeal 37 of 2020) [2023] KENET 1366 (KLR) (13 October 2023) (Ruling)**

Neutral citation: [2023] KENET 1366 (KLR)

**REPUBLIC OF KENYA
IN THE NATIONAL ENVIRONMENT TRIBUNAL - NAIROBI
TRIBUNAL APPEAL 37 OF 2020
EMMANUEL MUMIA, CHAIR, WINNIE TSUMA, VICE CHAIR, KARIUKI
MUGUA, DUNCAN KURIA & RONALD ALLAMANO, MEMBERS
OCTOBER 13, 2023**

BETWEEN

JACKSON NZARO MASHA APPLICANT

AND

KENYA WILDLIFE SERVICE RESPONDENT

AND

STANDARD CHARTERED BANK GARNISHEE

KENYA COMMERCIAL BANK GARNISHEE

RULING

1. The Applicant/Decree Holder filed an application dated 10th March 2023 seeking, inter alia, a Garnishee Order Absolute against the bank accounts operated by the Garnishees herein in trust for the Respondent.
2. The Decree Holder is seeking for the attachment of the aforementioned bank accounts so as to satisfy the decree of this Tribunal dated 1st March 2023.
3. The Respondent filed a Replying Affidavit and written submissions both dated 28th September 2023. The 1st Garnishee filed a Replying Affidavit dated 20th September 2023 and written submissions dated 3rd October 2023. The 2nd Garnishee filed a Replying Affidavit dated 13th April 2023.
4. The Decree Holder did not file his written submissions.



Issues for Determination

5. Having considered the application dated 10th March 2023 and all documents filed by the parties, the Tribunal has identified the following issues for determination:
 - a. Whether the Tribunal should issue a Garnishee Order Absolute against the bank accounts operated by the Garnishees; and
 - b. What Orders should the Tribunal make?
Whether the Tribunal should issue a Garnishee Order Absolute against the bank accounts operated by the Garnishees
6. This Tribunal, vide its Judgment dated 19th October 2022, made the following orders, inter alia:

‘The Tribunal recommends to the Cabinet Secretary for payment to the Appellant of a sum of Kshs. 2,000,000/= as compensation.’
7. Likewise, vide the decree dated 1st March 2023, this Tribunal ordered, inter alia:

‘That the Tribunal recommends to the Cabinet Secretary for payment to the Appellant of a sum of Kshs. 2,000,000/= as compensation’.
8. The Respondent submits that a critical element in execution of decrees is that such proceedings should only be made against a person/entity who has been addressed in the decree. The decree issued by this Tribunal made a recommendation to the Cabinet Secretary and not the Respondent herein.
9. In giving its final determination via the judgment dated 19th October 2022, this Honorable Tribunal at paragraph 22 noted that:

‘On the Preliminary point we agree with the Respondent’s submissions that ultimately it is the Compensation Committee who is responsible for compensation and not the Respondent.’
10. Compensation claims for human death, injury or crop damage caused by wildlife are paid out of The Wildlife Compensation Scheme established under Section 24 of the [Wildlife Conservation and Management Act](#).
11. The bank accounts indicated in the Appellant’s application do not relate to The Wildlife Compensation Scheme out of which his claim ought to be paid. The Tribunal declines to grant the orders sought in the application dated 10th March 2023.

Orders

12. For the above reasons, the Tribunal makes the following orders:
 - a. The Application dated 10th March 2023 be and is hereby dismissed; and
 - b. Each party to bear their own costs.
13. The parties’ attention is drawn to the provisions of Section 130 of the EMCA.

DATED AT NAIROBI THIS 13TH DAY OF OCTOBER 2023

EMMANUEL MUMIA.....CHAIRPERSON



WINNIE Tsuma.....VICE CHAIRPERSON
KARIUKI MUIGUA.....MEMBER
DUNCAN KURIA.....MEMBER
RONALD ALLAMANOMEMBER

