



**Multiple Hauliers Co. Ltd v Abdule (Civil Appeal 31 of 2019)  
[2023] KEHC 1166 (KLR) (23 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 1166 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
CIVIL APPEAL 31 OF 2019  
A. ONG'INJO, J  
FEBRUARY 23, 2023**

**BETWEEN**

**MULTIPLE HAULIERS CO. LTD ..... APPELLANT**

**AND**

**ADAN MAALIM ABDULE ..... RESPONDENT**

**RULING**

1. Vide an amended application dated September 10, 2019, the appellants sought for stay orders for the judgment of December 17, 2012, stay of the cheques drawn in favour of the Respondent's advocates for release of the appellant's attached motor vehicles, a declaration that the warrants of attachment were null and void and that ICON Auctioneers refund KShs. 889,000 that was transferred to their account by the appellant's insurers.
2. The appeal and the application was partially compromised on September 12, 2019 and the issue that remained for determination was the validity of the warrants and whether the auctioneer was entitled to costs. The parties were to continue mediating on the auctioneer's costs on a without prejudice basis.
3. Having read and weighed the submissions of the parties against each other, it is apparent that if the decretal sums of KShs. 1,018,924 in Voi Civil Case No. 114 of 2009 had been deposited in a joint account in the names of the parties' advocates in Voi Civil Appeal No. 10 of 2013, a warrant of attachment and sale ought not to have been issued against the Appellants at the instructions of the respondents or the respondents' advocates. Even if there were no deposits of the decretal sums, issuance of a warrant for the sum of KShs. 7,066,933 was not founded on any judgment or decree. The same was therefore invalid and null ab initio.
4. The auctioneer cannot be entitled to costs against the appellants arising out of an invalid warrant and the instructing client should bear the auctioneer's costs. The sum of KShs. 889,000 transferred to the auctioneers by the appellant's insurer should therefore be refunded forthwith.



5. Each party to bear their own costs.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,**

**THIS 23<sup>RD</sup> DAY OF FEBRUARY 2023**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**In the presence of: -**

**Otolo- Court Assistant**

Mr. Abaga H/B for Mr. Mogaka Advocate for the Appellants

No appearance for M/S Mutunga & Muindi & Co. Advocates for the Respondent

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

Court: Copy of ruling to be supplied to parties upon paying copying charges.

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

