



**Kitonga & 2 others v OCS Railways Police Station & 2 others (Criminal Miscellaneous Application E097 of 2023) [2023] KEHC 3590 (KLR) (Crim) (29 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 3590 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL MISCELLANEOUS APPLICATION E097 OF 2023**

**DR KAVEDZA, J**

**MARCH 29, 2023**

**BETWEEN**

**TIMOTHY MWENDA ..... 1<sup>ST</sup> APPLICANT  
ROBERT M KITONGA ..... 2<sup>ND</sup> APPLICANT  
SETH AGONYA MASIZA ..... 3<sup>RD</sup> APPLICANT**

**AND**

**OCS RAILWAYS POLICE STATION ..... 1<sup>ST</sup> RESPONDENT  
DIRECTOR OF PUBLIC PROSECUTION ..... 2<sup>ND</sup> RESPONDENT  
KENYA RAILWAYS CORPORATION ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. Upon hearing a brief submissions by all the parties, it is hereby ordered that the motor cycles be photographed and released to the applicants.
2. An order do issue to NTSA to prohibit transfer of the motor cycles until this application is heard and determined.
3. The applicants are prohibited from disposing of the motor cycles pending hearing of this application.
4. The applicants shall present themselves with the escort of their counsel to PC Kiplimo to record statements.
5. Ms Yala and Mr Kiragu to file their relevant responses within 14 days.
6. Mention on April 27, 2023 for directions.



7. Mr Metto has corresponding leave to file his response within 7 days.

**RULING READ AND DELIVERED ON 29<sup>TH</sup> DAY OF MARCH, 2023**

**HON DIANA R KAVEDZA**

**JUDGE**

