



**Njoroge v Baron Capital Limited & another (Civil Suit E136 of 2023)
[2023] KEHC 20998 (KLR) (Commercial and Tax) (31 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20998 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT E136 OF 2023
JWW MONG'ARE, J
JULY 31, 2023**

BETWEEN

ELIJAH NJORE NJOROGE PLAINTIFF

AND

BARON CAPITAL LIMITED 1ST DEFENDANT

**LAZARUS KINYUMU MATIVO T/A SPECTRUM AUCTIONEERS 2ND
DEFENDANT**

RULING

1. By a Ruling issued by this court on April 24, 2023, this court made the following orders;
 1. That the Application herein has merit and is hereby allowed.
 2. That the 1st and 2nd respondents are hereby ordered and directed with immediate effect to release the two motor vehicles KDK 100Y Toyota Landcruiser and KDK 220Y Lexus to the applicant.
 3. That costs of this application be borne by the 1st respondent.
2. Subsequently two sets of applications were filed on 8/5/2023 and 11/5/2023 by the defendant and on 17/5/2023 by the plaintiff seeking various orders.
3. On May 25, 2023 and during the highlighting of the submissions of the application the defendants argued that they were yet to be served with the orders of the court for which the plaintiff was seeking to have them held in contempt of the court orders for failure to comply with the said orders.
4. The court then directed the plaintiff to immediately and effectively serve the Defendants with the said order and reserved the rulings on the said application for delivery on 31/7/2023.



5. I have considered the directions issued by the court on the said date. Before the court considers an application for contempt whose outcome has penal sanctions, if proved, the court has to be fully satisfied that indeed the defendant was properly served and having been so served has failed and/or neglected to comply with the said orders.
6. In the premises therefore the court will not consider the application filed by the plaintiff for contempt of court until such a time that it is proved that the defendants, being seized with court orders have failed and/or refused to comply with the said orders and is indeed in contempt of court.
7. In light of the fact that the Defendants were not properly seized with the court orders issued by the court on April 24, 2023, the court will also not consider the two applications filed by the defendants on 8/5/2023 and 11/5/2023 until it the said defendants have complied with the orders of April 24, 2023.
8. In the premises therefore, the said three applications are hereby struck out. Either party is at liberty to move the court appropriately.
9. Costs shall be in the cause. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 31ST DAY OF JULY 2023

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J. W. W. MONG'ARE

JUDGE

In the Presence of:-

Mr. Chris Mutuku for the Plaintiff.

Mr. Juma Ouko for the 1s Defendant.

Mr. Juma Ouko holding brief for Mr. Mwaniki for the 2nd Defendant.

Sylvia- Court Assistant.

