

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

MISC. CIVIL APPLICATION NO. 306 OF 2018

NIC BANK PLC.....APPLICANT

VERSUS

1. WILLIAM KIPKORIRI ARUSEI

2. GATHOGO T/A VALLEY AUCTIONEERS

3. EMPRO ELECTRICAL & MECHANICAL

ENGINEERS COMPANY LIMITED.....RESPONDENTS

R U L I N G

1. With the request to withdraw the application dated 15/11/2018 this court cannot stand on the way of the Applicant. The same is marked withdrawn but pursuant to Order 25 Rule 2(2) the costs are awarded to the Respondents.

2. It having come to the attention of the court by papers filed that the parties are in dispute over a repossession carried out in Nairobi, that to this court was the cause of action and this application ought to have been filed in Nairobi.

3. Additionally, it has come to the attention of the court by papers filed that the hire purchase agreement was for Kshs.5,088,000/= and only about 500,000/= was outstanding at the date of repossession and being cognizant of the provisions of Consumer Protection Act, I direct that Ms. Empro Electrical & Mechanical Engineers Co. Ltd, 3rd Respondent pays to the bank the sum of Kshs.500,000/= upon which payment the motor vehicle be released to it forthwith.

4. It is so ordered.

Dated and delivered at Mombasa on this 18th day of December 2018.

P.J.O. OTIENO

JUDGE