



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL DIVISION**  
**HIGH COURT CIVIL APPEAL NO. 198 OF 2012**

**MERCY NJOKI KAMAU.....DECREE HOLDER**

**VERSUS**

**TINY M ROYAL COMPANY.....JUDGMENT DEBTOR**

**MANTEMO ROYAL SERVICES LIMITED.....OBJECTOR/APPLICANT**

**RULING**

1. The application dated 17<sup>th</sup> October, 2016 seeks the following orders:-

- 1. This Honourable Court be pleased to issue an order declaring that the goods proclaimed by Galaxy Auctioneers on the 10<sup>th</sup> October 2016 belong to the Objector Mantemo Royal Services Limited and not the Judgment Debtor.**
- 2. The Honourable Court be pleased to issue an order lifting/raising the proclamation of the Objector's goods.**
- 3. That the costs of this application be borne by the Appellant/Respondent.**

2. The Objector's case is that on 10<sup>th</sup> October 2016, Mrs. Galaxy Auctioneer proclaimed the Objector's goods. The proclamation of attachment of moveable property reflects the said goods as one motor vehicle registration No. KAY 723B Nissan Van, office furniture and one computer. According to the Objector, the attached goods except the motor vehicle belong to the Objector herein. The Objector's contention is that it is not a party to the suit herein and did not participate in the same. The Objector exhibited its certificate of incorporation and stated that it is a stranger to the Judgment Debtor.

3. In opposition to the application, the Decree Holder filed the grounds of opposition dated 28<sup>th</sup> November 2016. The said grounds state as follows:-

- 1. THAT the directors of the Objector and those of the Defendant are just but one and the same.**
- 2. THAT the address of service of the Judgment Debtor as well as the Objector are just one and the same**
- 3. THAT as such Judgment Debtor and Decree Holder are just but one and the same**

**4. THAT the Judgment Debtor is using the Objector as a front to evade setting this courts decree.**

**5. THAT the Defendant is truly indebted to the Plaintiff.**

**6. THAT the Plaintiff will suffer grave prejudiced if stopped from enjoying the fruits of her judgment.**

4. The application was argued by way of written submission which I have considered.

5. Although the Decree Holder has stated that the Judgment Debtor is using the Objector as a front to evade the settlement of the decree herein, there is no evidence in support of the said assertion. The Decree Holder has not filed any affidavit to controvert the averments made by the Objector. There is therefore no basis upon which the Decree Holder can state that the directors of the Objector are the same as the Judgment Debtor's. The certificate of incorporation of Mantemo Royal Services Ltd, the Objector herein has been exhibited herein. Going by the said certificate of incorporation, the Objector is a separate and distinct legal entity from the Judgment Debtor.

6. The Objector has also exhibited receipts for the purchase of the office chairs and the computer. This evidence remains uncontroverted by any other evidence.

7. With the foregoing, this court is satisfied that the Objector has established ownership of the attached goods. Consequently, I allow the application as prayed except in respect of motor vehicle registration No. KAY 723B. Costs to the Objector.

Date, signed and delivered at Nairobi this 22<sup>nd</sup> day of June, 2017

**B. THURANIRA JADEN**

**JUDGE**