



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL DIVISION
MISC CAUSE NO. 9 OF 2013

SAMAI SINGH.....APPLICANT

VERSUS

KENYA REVENUE AUTHORITY.....RESPONDENT

R U L I N G

1. In this cause (**amended notice of motion dated 6th February 2013**) the Applicant seeks the main order that motor vehicle registration number **KAU 208P** make **Mercedes Benz Station Wagon** detained by the Respondent be released forthwith and unconditionally to the Applicant. The Applicant has invoked the inherent power of the court.

2. The grounds for the application stated on the face thereof include –

(i) That the Applicant is the registered owner of the motor vehicle.

(ii) That the motor vehicle has been in the country since the year 2005 and has been previously owned by other people before the Applicant bought it.

(iii) That the Respondent impounded the motor vehicle allegedly due to underpayment of duty, and demanded the same from the Applicant.

(iv) That the Respondent's action is malicious, unlawful and amounts to harassment of the Applicant and interference with his proprietary rights over the motor vehicle.

3. The application is supported by the Applicant's affidavit. He depones, *inter alia*, that the motor vehicle is duly registered in his name (a copy of the *log/registration book* is exhibited); that he purchased the vehicle from one **Raman Enterprise Limited**; that on 17th October 2012 the Respondent seized the motor vehicle and made a demand for payment of duty; and that the motor vehicle having been imported into the country in 2005, and the same having been owned by other persons previous to the Applicant buying it, the demand for duty by the Respondent was malicious and unlawful.

4. The Respondent was duly served with the application, and on 20th March 2013 it appeared in court by counsel. The Respondent was then accorded 21 days to file and serve its papers in response. This

period was further extended on 28th May 2013. Ultimately, by 26th June 2013 when the application was heard the Respondent had not filed any papers in response.

5. I have considered the submissions of the learned counsels appearing. Despite being accorded opportunity to do so, the Respondent has not explained why it so belatedly impounded the subject motor vehicle and demanded duty from the Plaintiff after it registered the motor vehicle in his name. The application is thus unopposed.

6. In the event I will allow the application as prayed with costs. It is so ordered.

DATED AND SIGNED AT NAIROBI THIS 11TH DAY OF JULY 2013

H. P. G. WAWERU

JUDGE

DELIVERED AT NAIROBI THIS 19TH DAY OF JULY 2013