

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISCELLANEOUS PETITION 195 OF 2008

STANBIC BANK KENYA LIMITED.....PETITIONER

AND

THE OCS MACHAKOS POLICE STATION.....1ST RESPONDENT

THE DCIO MACHAKOS.....2ND RESPONDENT

THE COMMISSIONER OF POLICE.....3RD RESPONDENT

HON. ATTORNEY GENERAL.....4THRESPONDENT

JUDGMENT

1. CFC Stanbic Bank financed motor vehicle registration No. KAS 212L and Trailer ZC 1458. Unfortunately the debtor one *Beth Wanjiru t/a Robert and Sons* was unable to complete payment and the bank instructed auctioneers to repossess the vehicle. The vehicle could not be readily traced but at some point it was found at the Machakos Police Station.

2. On 22nd March 2012, I summoned the OCS Machakos Police Station to show cause why the motor vehicle should not be released to the petitioner. When he appeared before the court on 7th May 2012, Chief Inspector Mwaura informed stated on oath that the vehicle was not in the possession of the Machakos Police Station. He undertook to find out the whereabouts of the vehicle. On 30th May 2012, Mr Karungo, counsel for the petitioner, informed the court that the vehicle had been located at the Police Dog Unit at Lang'ata.

3. I have considered the supplementary affidavit of Mr Karungo sworn on 17th July 2012 where the Chief Inspector of the Police Dog Unit, one Mr Yusuf, who confirms that he has received summons to attend court but that he does not know why the vehicle was brought to the Dog Unit. In a letter dated 12th June 2012, Mr Yusuf also confirms that the vehicle was not booked in accordance with the proper procedure.

4. In view of the fact that the vehicle has been in police custody since the year 2006 and that this matter was filed in 2008 and no reason has been given to show why the motor vehicle is being withheld, I order as follows;

(a) **Motor vehicle registration No. KAS 212L and Trailer ZC 1458 be released forthwith to an agent of CFC Stanbic Bank.**

(b) **CFC Stanbic Bank shall file an indemnity in favour of the respondent upon release of the motor vehicle within seven days.**

(c) **There shall be no order as to costs.**

DATED and DELIVERED at NAIROBI this 23rd day of July 2012

D.S. MAJANJA
JUDGE