



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**SUCCESSION CAUSE NO. 210 OF 2009**

**IN THE MATTER OF:      THE ESTATE OF VENESA KAHAKI**

**PAUL KIRIRO MUGO & SARAH NDUTA MWANGI .....PETITIONER/DECREE  
HOLDER**

**AND**

**IN THE MATTER OF: DICKSON NYAWINDA ORUKO t/a  
D.N. ORUKO & COMPANY ADVOCATES .....JUDGMENT  
DEBTOR**

**R U L I N G**

The main question in this objection proceedings vide the Chamber summons dated 15<sup>th</sup> July 2010 is whether the attached motor vehicle M/V KBF 224 E Toyota Hiace is jointly owned by the Objector and the judgment debtor, her husband pursuant to her marriage and subsequent cohabitation and whether at is liable to attachment herein.

I carefully perused the Registration Book for Motor Vehicle Registration No. KBF 224 E Toyota, Station Wagon.

The registered owner is Dickson Oruko Nyawinda and Equity Bank Limited. It would appear that Equity Bank is the asset financier of the motor vehicle. They have not lodged any objection proceedings and court is deemed that they are not interested in the matter in their debt may have been paid off.

Under the Traffic Act Cap 403, the person in whose name a vehicle is registered shall unless the contrary is proved is deemed to be the owner of the vehicle.

There is no caveat or restriction in the ownership herein. There is no court order which has determined the vehicle to be community or matrimonial property or assets under the Married Women's Property Act or otherwise.

These objection proceedings cannot be the forum to prove that the vehicle herein is a matrimonial property whose ownership invokes the Objector.

I find that the Objection proceedings were filed in furtherance of the resistance by the judgment debtor in meeting his obligations and liabilities herein.

I do hereby dismiss the application dated 15<sup>th</sup> July 2010. I do order that execution proceeds to

finality save that the sale proceeds not to be released directly to the Petitioner/Decree/Holder until it is confirmed that Equity Bank Ltd have been fully paid in connection with any financing of the vehicle.

Orders accordingly. Costs shall be paid by the judgment debtor.

**Dated and delivered at Mombasa this 29<sup>th</sup> day of November 2010.**

**M. K. IBRAHIM**  
**J U D G E**

Coram:

Ibrahim, J

Court clerk – Kazungu

No Appearance for the Objector

Mr. Mutugi for the Petitioners/Respondent

**ORDER**

Ruling delivered in their presence.

Ibrahim, J