



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
Criminal Revision 13 of 2009

- 1. LAZARUS
IRUNGU MAINA**
- 2. SHADRACK
MAINGI NJUGUNA**
- 3. ANDREW KIMANI
NJERI**
- 3. WILLIAM
MUIRURI KAMA**
- 4. FRANCIS
MWANGI GITHINJI**
- 5. JOHN MULI
MUSILA**
- 6. GERISHON
KARIUKI MWANGI**
- 7. FRANCIS
MWAURA KINGARA**
- 8. DANCAN NDUNGU
ORI**
-
-
-**APPLICANTS**

VERSUS

REPUBLIC

RULING ON A REVISION

1. By letter dated 13.10.2009, L.M. Ngolya & Co. Advocates acting for the estate of one William Muiruri Kamau (deceased) have asked this court to exercise its reversionary powers and call for and examine the record in Machakos CM’s Court Criminal Case No. 1481/2005 and determine whether the orders issued on 25.3.2009 in that case were proper. The orders made on that day were that the learned trial magistrate declined to release motor vehicle registration KAG 639C to Elizabeth Wanjiru Muriuki.

2. The advocates for the said Elizabeth have stated that the court in declining to release the motor-vehicle was swayed by an unsigned report from the DCIO, Machakos, which report, it is alleged, was null and void for want of authentication.
3. I have read the record and especially the submissions made before the learned trial magistrate and her concise Ruling. There is absolutely no reason why this court should interfere with the orders made because the proceedings in Cr. Case No. 1481/2005 are on-going and the Prosecution is detaining the subject motor-vehicle as an exhibit in the case. It is incredible that the advocates are saying that the motor vehicle should be released to Elizabeth when the records indicate that it is registered in the names of Nancy W. Kiruga and not Muriuki who was Elizabeth's husband. In any event some of the accused persons in the criminal trial have absconded and one of them was Elizabeth's husband who ended up being killed in Moshi, Tanzania while on the run.
4. To tamper with an exhibit at this stage and to merely take its photograph as suggested by Elizabeth and her advocate would occasion injustice.
5. I see nothing to revise and I decline to do so. Let the lower court file be returned forthwith.
6. Order accordingly.

Dated at **Machakos** this **9th** day of **November** 2009.

Isaac Lenaola

Judge

In the presence of;

Isaac Lenaola

Judge