

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Misc Appli 906 of 2006

DAVID MARIGA MUREITHI.....APPLICANT

VERRSUS

REGISTRAR OF MOTOR VEHICLES.....RESPONDENT

RULING

This is an application brought by way of Notice of Motion under Order XXI Rule 71 Order L of the Civil Procedure Rules and Section 3A of the Civil Procedure Act by the Applicant seeking orders that the Registrar of Motor Vehicles do issue a Duplicate Registration Book and transfer of Motor Vehicle Registration NO. KWM046 Subaru Station Wagon to the applicant David Mariga Mureithi, and that the property in the motor vehicle KWM046 be vested in the applicant.

The application is also supported by an affidavit sworn by the Applicant on 14th December 2006 in which he avers that he is the beneficial owner of the motor vehicle registration NO. KWM06 having purchased the same from Fredrick Mumo Mutisya through his agent for consideration of Sh.60,000/=; that the vendor had purchased the motor vehicle through a public auction conducted by Whitestone Auctioneers for Shs.30,000/=; that Whitestone Auctioneers had advertised the sale of the subject motor vehicle through the Newspapers; that Mr. Fredrick Mumo Mutisya had signed a transfer but the same was rejected by the Registrar of motor vehicles as it did not bear the PIN Number; that efforts to trace the said vendor to fill in the details have been futile; that I forwarded all the necessary documents to the Registrar and paid the requisite fee for transfer but the same were rejected.

The Respondent was served with this application but did not file any papers to oppose the application nor did he appear in court. But that notwithstanding this application is misconceived Section 8 of the Traffic Act Cap 403 provides that the person in whose name a vehicle is registered shall unless the contrary is proved, be deemed to be the owner of the vehicle.

That being so a duplicate registration book can only be issued to the registered owner after he has proved through documentary evidence that the original is lost and efforts made to trace the same were fruitless.

And Section 9 provides that no vehicle the ownership of which has been transferred by the registered owner shall be used on a road for more than 14 days after the date of such a transfer unless the new owner is registered as the owner. The Applicant claims to have purchased the subject motor vehicle on 24th January 2001 and the same has been on the road without registration. To compel the Registrar of Motor Vehicles to issue a duplicate registration book to a person other than the registered owner would be the beginning of anarchy.

For the reasons above stated the Applicant's Notice of Motion dated 14th December 2006 is dismissed.

Dated and delivered at Nairobi this 13th day of June 2007.

J.L.A. OSIEMO

JUDGE