



**Wekesa (As Legal Representative of the Estate of George E. Wekesa) & another v Taib & another
(Environment & Land Case 262 of 2018) [2023] KEELC 20422 (KLR) (2 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20422 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT & LAND CASE 262 OF 2018
LL NAIKUNI, J
OCTOBER 2, 2023**

BETWEEN

**KENNEDY ELLAM WEKESA (AS LEGAL REPRESENTATIVE OF THE ESTATE
OF GEORGE E. WEKESA) 1ST PLAINTIFF**

GEORGE ELLAM WEKESA 2ND PLAINTIFF

AND

ABDULLA ALI TAIB 1ST DEFENDANT

CATHERINE NEMALI WEKESA 2ND DEFENDANT

RULING

I. Introduction

1. The application before this Honorable Court for hearing and determination is the Notice of Motion application dated 19th January, 2023 brought under a certificate of urgency by the Objector. It is brought by the Applicant under the provisions of Order 52 Rule 5 of the Civil Procedure Rules 2010 (New Rule) and Section 3A of the *Civil Procedure Act*, Cap. 21. The Objector also filed a Notice of Objection brought under Order 22 Rule 52 (1) of the Civil Procedure Rules 2010.
2. Upon service, the Defendant opposed the application through a Replying affidavit sworn on 17th March, 2023. He also filed a notice of intention to proceed with attachment dated 16th March, 2023.

II. The Applicant's case

3. The Applicant seeks for the following orders:-
 - a. Spent.



- b. That this Honourable court be pleased to make a finding that all the attached goods namely 1PC, Sony TV, 4 & 2 burner gas cookers, 6kg cooking gas, round wooded dining table, assorted sofa set, 2pc speakers, assorted windscreens and all the items in the premises in which the Objector resides are absolutely owned by the Objector.
 - c. That the court be pleased to stop the attachment of the abovementioned items by Alfajiri Auctioneers on the 16th of January 2023.
 - d. That the costs of this application be provided for.
4. The Objector filed an objection notice to the effect that:

“The Objector has legal interest in the attached goods namely 1pc Sony TV, 4 & 2 burner gas cookers, 6kg cooking gas, round wooded dining table, assorted sofa set, 2pc speakers, assorted windscreens and all the items in the premises in which the Objector resides and the Objector is a stranger to this suit.”
5. The Application was supported by the 16th paragraphed affidavit sworn by Catherine Nemali Wekesa, the Objector herein on 19th January, 2023 where she averred that:
 - i. She lived in the house on Plot no. Mombasa/Block X/97.
 - ii. Her occupation and possession of the aforesaid property is the subject of a pending suit to wit ELC No.E99 of 2022, Mayfair Establishment Ltd -vs- Abdulla Ali. Taib (as the legal representative of the Estate of Sheikh Ali Taib Bajabar (deceased), Kennedy Ellam Wekesa (sued as the legal representative of the estate of George Ellam Wekesa (deceased), Selina Wekesa and Catherine Wekesa. A copy of the Plaint and mark the same as “A” was annexed.
 - iii. From the aforesaid suit, it is not in dispute that she was a resident of the above stated property.
 - iv. George Ellam Wekesa left the premises well before his death on 27th July 2006 and none of the items in the house belong to him.
 - v. She had been living in the house all along and no suit has been filed against her to challenge her occupation of the property save for ELC No. E99 of 2022.
 - vi. She had in response to the aforesaid suit filed a Statement of Defence indicating that her position and occupation of the suit property is protected by provisions of the Limitations of Actions Act Cap 22 Laws of Kenya. She annexed a copy of her Statement of Defence and mark the same as “B”.
 - vii. She occupied the property in her own right and her occupation thereof is not an outflow of the Estate of George Ellam Wekesa with reference to paragraph 12 of the Statement of Defence.
 - viii. Consequently and by reason of her occupation of the suit premises, a fact that is well known to the defendants herein, all the moveable properties in the premises belong to her and not George Ellam Wekesa.
 - ix. Among the items attached are cooking apparatus like cookers, gas cylinders which she used for cooking and which are protected from attachment.



- x. As indicated above, the properties attached do not belong to the Estate of George Ellam Wekesa, the said George Ellam Wekesa having died in 2006 a fact that is well known to the Defendant.
 - xi. He had not been a party to this suit and the attachment of his properties is not justified.
 - xii. Further to the foregoing, she was informed by her advocates on record and particularly by Mr. William O. Wameyo that the Summons issued and pursuant to which has been enforced was irregularly issued since;-
 - a. The Decree herein was issued in 2020
 - b. More than one (1) year has lapsed since the issuance of the Decree
 - c. The requirement that a Notice to Show Cause why execution should not proceed, a period of 12 months having lapsed since the date of the Decree, has not been complied with thus rendering the entire execution process irregular.
 - xiii. The foregoing facts are discernable from the documents that were served upon her by the auctioneers notably the Application for Execution of Decree filed on 20th December 2022.
 - xiv. In view of the foregoing it is only just and fair that the orders sought herein be granted.
6. The Objector also filed a 6 paragraphed Supplementary Affidavit by the Objector herself sworn on 23rd January, 2023 where she averred that:
- a. On 16th January, 2023, her properties which are the subject of this application were attached by Alfajiri Auctioneers.
 - b. She inadvertently failed to annex a copy of the Complaint referred to in paragraph 3 of her affidavit in support of the application dated 19th January 2023.
 - c. She inadvertently failed to annex a copy of the Statement of Defence referred to in paragraph 7 of her affidavit in support of the application dated 19th January 2023
7. The Objector further filed a 6th paragraphed Further Affidavit sworn on 8th February, 2023 where she stated that:
- a. In the supporting Affidavit with respect of the Notice of Motion dated 19th January 2023, the annexures referred to in the said affidavits were inadvertently not annexed to the supporting affidavit.
 - b. She annexed a copy of the Complaint, Statement of Defence and a copy of the Proclamation of Attachment dated 16th January, 2023.

III. The Defendant's/Respondent's case

8. The Defendant, Abdulla A. Taib filed a 16 paragraphed replying affidavit dated 17th March, 2023 opposing the application on the following grounds: -
- a. The said application is misconceived and is bad in law for the following reasons:
 - i. The Objector has not established that she has a legal or equitable interest in the property(s) attached;



- ii. The Objector has not adduced evidence to show that at the date of the attachment there was a legal or equitable interest in the property(s) attached;
 - iii. The objector has failed to discharge the burden of proving that she is entitled to or has legal or equitable interest on the whole or part of the attached property as there is no nexus between the Objector and the items attached;
 - iv. The objector not shown that the items attached are tools of trade;
 - v. The said Application is made to circumvent and defeat the cause of justice and to make the court act in vain;
 - vi. The Application has no merit and should be dismissed with costs.
- b. Contrary to averments by the Objector that no application for execution of Decree was filed in Court, there exists an application for execution dated 31st October 2022.
 - c. Contrary to laid down rules of Procedure, the Objector caused to be filed and served a further affidavit on the 8th February 2023, this without the leave of the Court.
 - d. Contrary to averments by the Objector the suit subject matter has been subject to a prolonged contracted suit, with each and every family member filing various applications and suits this is all despite the Court of Appeal in Civil Appeal 146 of 2011 Kennedy Ellam Wekesa vs Sheikh Ali Taib determining the dispute in favour of the Defendant.
 - e. The suit subject matter has been subject to a prolonged contracted suit, with each and every family member filing various applications and suits as was stated in the Preliminary Objection filed before this Court on the 20th March 2019, with the Court agreeing with the Defendant leading to the dismissal of this current suit with costs.
 - f. The Plaintiff and further one Selina Wekesa, Selina Weksa who is the Plaintiff in HCCC No.454 of 2002(OS) Selina Wekesa vs George Wekesa, has and is still in possession and stays in the suit property.
 - g. The Objector has not adduced a single receipt showing that she is the owner of the properties attached.
 - h. The Objector has not placed before this Court evidence showing the nexus between herself, the Plaintiff and the suit property.
 - i. The Objector has not placed before this Court evidence showing how she came to live in the suit property.
 - j. The granting of the said orders to the objectors would render the said decree useless and the Defendant stands to lose huge colossal sums of money if the warrant and the decree issued by this court is not enforced against the Judgement debtor.
 - k. There has been an end to litigation, by allowing the Defendant to take possession of its property and further recover its costs as awarded by this Court.
 - l. The Objector has in her Affidavit enclosed a PlaintELC CIVIL CASE NO.99 OF 2022 Mayfair Establishmnets Limited vs Abdulla A Taib & Others & Catherine Wekesa, that he sincerely believe that the same is a further scheme orchestrated by the same family members who are continued to file numerous suits and applications despite the Court of Appeal



determine the suit to finality, all with a false hope that they might just deprive the Defendant herein of its lawful acquired property.

- m. The affidavit is in opposition of the application filed herein by the Objector by way of Notice of Motion.

IV. Submissions

9. On 6th March, 2023 while all the parties were present in Court, they were directed to have the Notice of Motion application dated 19th January, 2023 be disposed of by way of written submissions and all the parties complied. Pursuant to that all the parties obliged and on 18th May, 2023 a ruling date was reserved on Notice by the Honourable Court accordingly.

A. The Written submission of the Objector

10. The Objector through the firm of Messrs. Wameyo Onyango and Associates Advocates filed written submissions dated 15th May, 2023 where Mr. Wameyo Advocate commenced the submissions as follows that upon this matter coming up for hearing the defendant raised a preliminary objection dated 20th March 2019. The preliminary objection was on 9th July 2020 upheld by the court and it was expressly ordered that:-
 - a. The court has no jurisdiction in this matter
 - b. The preliminary objection raised by the defendant is reinstated.
 - c. The suit and the notice of motion application dated 17th November 2018 are struck out for want of prosecution with costs to the defendant.
11. According to the provisions of section 63 of the *Civil Procedure Act*, execution of the aforesaid orders could not be carried out before the taxation of the Party to Party Costs Bill of Costs. The Party to Party Bill of Costs was filed on 23rd February 2021. The record shows that the plaintiffs filed written submissions on the 14th September 2022 while their corresponding submissions on 9th December 2022. The ruling of taxation was subsequently delivered on 5th October 2022. The Certificate of Taxation was subsequently issued on 12th October 2022.
12. The Learned Counsel invited the court to note that there are errors in that certificate with respect to the date of the Party to Party Bill of Costs. One undeniable fact however is that by the time the Party to Party Bill of Costs was taxed a period of 12 months had lapsed from the date of the judgment on 9th July 2020. By the Defendant's own admission on the Replying Affidavit sworn on 17th March 2023 and particularly paragraph 4 thereof, an application for execution is dated 31st October 2022. It is not stated when the same was filed in court. In any event, even from the very date of the application it is not in dispute that as at the time of the application 12 months had lapsed from the date of the judgment. It is also not in dispute that the parties to the suit were the legal representatives of the estate of George Ellam Wekesa and the legal representative of the estate of Sheikh Ali Taib. Neither the objector nor Selina Wekesa were parties to the suit. Consequently no order, adverse or otherwise, was issued against either the Objector or Selina Wekesa.
13. The Objector contended that she is the one who lives in the suit property. This fact is well known to the defendant since the defendant and the objector are parties to a pending suit to wit ELC No.9 of 2022 is the moveable properties in the same said property that are the subject of the objection proceedings herein.



14. The Learned Counsel submitted that in the Statement of Defence dated 26th September 2022 the objector herein, who is the 4th Defendant therein states that she is actual possession of the suit property and that that continuous possession is adverse to the interest of the alleged registered owner. Having regard to the date of the foregoing pleadings, it is clear that as at the time of execution of the decree herein, the Defendant herein was well aware of the fact that the objector lives in the subject property in the manner indicated in the said pleadings. The proclamation herein is dated 16th January 2023 long after the filing of the aforesaid pleadings which are well within the knowledge of the defendant herein.
15. The Learned Counsel relied on Order 22 Rule 18(1) of the Civil Procedure Rules provides as follows:-
- “Whereas an application is made
- a) More than one year after the date of decree
 - b) Against the legal representatives of a party to the decree or
 - c) For attachment of salary or allowances of any person under rule 43, The court executing the decree shall issue to the person against whom execution is applied for requiring him to show cause on a date to be fixed, why the decree should not be executed against him.”
16. The Learned Counsel further submitted that in this case, it is not denied that the application was made after the lapse of one year from the date of decree. Secondly, it is not denied that the application for execution herein is made against the legal representatives of the Plaintiff. Consequently, in line with Order 22 Rule 18(1)(b) it is mandatory that a Notice be issued to the legal representative of the deceased estate before execution can proceed. No such notice was issued. The warrants issued herein are in clear contravention of Order 22 Rule 18(1) as hereinabove indicated. The said warrants are null and void and we urge the court to treat the same as such.
17. On the ownership of the moveable properties, the Learned Counsel submitted that a look at the attached goods as specified in the motion dated 19th January 2023 and more specifically indicated in the Proclamation of Attachment dated 10th January 2023 show that the items are various household goods. The aforesaid values of the same items indicate that they are old. Having regard to the foregoing, the Learned Counsel invited the Honourable court to take judicial notice of the fact that it may not be reasonable to expect one to produce every receipt of such items more so particularly when the same are old. By the fact that it is the objector who lives in the premises where the goods were attached, unless there is any reason to hold otherwise, the court should make inference that the items belong to the objector.
18. The Learned Counsel submitted that on admission, more importantly the Defendant has, by admission, conceded to the fact that the defendant does not live in the premises. The Defendant stated that:
- “I am aware of my knowledge which information I verily believe to be true that contrary the Plaintiff in HCCC No. 454 of 2020 (OS) Selina Wekesa -Versus - George Wekesa, has and still is in possession and stays in the suit property”.
19. By the foregoing admission, it is clear that the legal representative of the estate of George Ellam Wekesa does not live in the suit premises. The Defendant does not lay the basis for the attachment of the goods since if indeed it is Selina Wekesa who lives in the property as they allege (the same is denied) there was no order issued against the said Selina Wekesa in this suit to inform the attachment of the goods in the



suit premises. It does not even help matters that indeed it is the objector who lives in the premises and that as at the time of the execution, Selina Wekesa was dead and does not live in the suit premises.

20. The Learned Counsel submitted that the annexing of pleadings in ELC No. 99 of 2023 cannot be a sinister scheme as implied by the Defendant since:-
- a. The Defendant is a party to the suit and is well aware of the same.
 - b. The suit there was not filed by the objector, herein but by a third party against both the objector and the Defendant herein.
 - c. The date of that suit precedes the date of both applications for execution herein and the date of attachment.
21. In conclusion, the Learned Counsel urged the Honourable Court in the forgoing to find that the warrants issued herein were issued irregularly since order 22 Rule 18(1) was not complied with as herein indicated and secondly that the goods attached belong to the objector as herein demonstrated. They also craved for the costs of this application.

V. Analysis and Determination

22. I have carefully read and considered the pleadings herein and the relevant provisions made by the by the Learned Counsels. In order to arrive at an informed decision, the Honorable Court has three (3) framed the following issues for determination.
- a. Whether the Objector has established legal and/or equitable interests over the proclaimed goods and whether the Objector has met the conditions for grant of an injunctive relief.
 - b. Whether the parties are entitled to the reliefs sought.
 - c. Who will bear the Costs of Notice of Motion application dated 19th January, 2023.

Issue No. a). Whether the Objector has established legal and/or equitable interests over the proclaimed goods and whether the Objector has met the conditions for grant of an injunctive relief.

23. The Court has considered the record in its entirety and the depositions of the parties. These are objection proceedings. The provision of Order 22 Rule 51 of the Civil Procedure Rules provides: -

“ Any person claiming to be entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree may at any time prior to payment out of the proceeds of sale of such property give notice in writing to the court and to all parties to the decree-holder, of his objection to the attachment of such property”.

24. Under the above cited provision, the court the court is required to determine is whether an objector has an interest, legal or equitable in the attached property. In the case of:- “Stephen Kiprotich Koech – Versus - Edwin K. Barchilei; Joel Sitienei (Objector) [2019] eKLR”, the court held:

“ The core of objection proceedings, the objector must adduce evidence to show that at the date of the attachment there was a legal or equitable interest in the property(s) attached. For this purpose, he may raise an objection on the ground, inter alia, that



he has some beneficial interest in the property. A beneficial interest is as much an interest within the meaning of the Rules as a legal interest in the property attached.”

25. Further, in “Arun C. Sharma - Versus - Ashana Raikundalia T/A A. Raikundalia & Co. Advocates & 4 others [2014] eKLR”, it was held: -

“The objector bears the burden of proving that he is entitled to or has legal or equitable interest on the whole or part of the attached property. The key words are; entitled to or to have a legal or equitable interest in the whole or part of the property. Has the objector proved it is entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree?”

26. From the foregoing, it is clear that in objection proceedings, all that an objector has to establish is that, he/she has a legal or equitable interest in the goods attached. In the present case, the objector swore that the attached items belonged to her. They were attached from her home where she has lived even during the subsistence of the suit. She did not attach any receipts to prove that she bought the proclaimed goods.
27. She further stated that she had been living in the house all along and no suit has been filed against her to challenge her occupation of the property save for ELC No. E99 of 2022. She responded to the aforesaid suit filed a Statement of Defence indicating that her position and occupation of the suit property is protected by provisions of the Limitations of Actions Act Cap 22 Laws of Kenya. She occupied the property in her own right and her occupation thereof is not an outflow of the Estate of George Ellan Wekesa. She referred the court to paragraph 12 of the Statement of Defence. Consequently and by reason of her occupation of the suit premises, a fact that is well known to the defendants herein, all the moveable properties in the premises belong to her and not George Ellam Wekesa.
28. In the case of:- “Michael Kwena – Versus - Raza Properties Limited & Another [2008] eKLR”, the court held: -

“In a situation of man and wife, a situation that this court, has judicial notice of as a result of the discharge of duties in relation to disputes relating to man and wife property rights, the right to contribution to acquisition either directly or indirectly is almost unquestionable. Household goods are meant to be for the use of the entire family. It is therefore difficult to put a clear distinguishing line as between what belongs to the husband as opposed to what belongs to the wife. The assumption usually is that there is common usage for all the family of all the households, thus making difficult to make a clear and precise decision as to what belongs to the wife as opposed to the husband.

As observed by Ringera Judge, as he then was, the person who could be called upon to shed some light on the ownership, are the shop keepers from whom the goods were purchased. But as observed, it is not a normal practice for courts to call shop keepers to prove such purchases. The decision of who owns the households will therefore depend on whether the objector has demonstrated ability to acquire. In this court’s opinion, the objector herein has demonstrated such an ability by virtue of her being in gainful employment and by her being a family member. The objection against the attachment of the household goods is therefore upheld.”



29. As already stated, the Objector has not provided any evidence of receipts of purchase of the household goods that bears her name. She only indicated that according to the proclamation of attachment dated 10th January, 2023 showed the items are various households goods. The aforesaid values of the same items indicated that they were old.
30. In the case of:- “Precast Portal Structures – Versus - Kenya Pencil Company Ltd & 2 Others [1993] eKLR” it was held: -
- “The burden is on the objector to prove and establish his right to have attached property released from the attachment. On the evidential material before the court, a release from attachment may be made if the court is satisfied.
- i. That the property was not when attached, held by the Judgment-Debtor for himself or by some other person in trust for the Judgment-Debtor, or,
 - ii. That the objector holds that property on his own account.
31. The court further observed that: -
- “But where the court is satisfied that the property was, at the time of attachment, held by the Judgment Debtor as his own and not on account of any other person, or that it was held by some other person in trust for the Judgment-Debtor or that ownership has changed whereby the Judgement-Debtor has been divested of the property in order to evade execution on the change is tainted with fraud, the court shall dismiss the objection”
- “The court takes into account the grounds of objections raised and the contentions of the respective parties to the objection proceedings. Any special features evident in the proceedings which throw light on the controversy must be regarded.”
32. The principle that emerges from the above cited decisions is that once the Objector proves his interest in the attached property, the Court then makes an order raising the attachment as to the whole or a portion of the property subject to the attachment.
33. The Defendant has argued that the Objector has not established that she has a legal or equitable interest in the property(s) attached, the Objector has not adduced evidence to show that at the date of the attachment there was a legal or equitable interest in the property(s) attached, the objector has failed to discharge the burden of proving that she is entitled to or has legal or equitable interest on the whole or part of the attached property as there is no nexus between the Objector and the items attached, she had also not show that the items were tools of trade and that the said application was made to circumvent and defeat the cause of justice to make the court act in vain.
34. The Defendant further averred that the Objector the suit subject matter has been subject to a prolonged contracted suit, with each and every family member filing various applications and suits this is all despite determining the dispute in favour of the Defendant. The suit subject matter has been subject to a prolonged contracted suit, with each and every family member filing various applications and suits as was stated in the Preliminary Objection filed before this Court on the 20th March 2019,with the



Court agreeing with the Defendant leading to the dismissal of this current suit with costs.

35. Section 44(1) of the *Civil Procedure Act* provides that in execution proceedings, only property of the judgment debtor is liable to attachment. The said section stipulates that: -

“All property belonging to a Judgment Debtor including property over which or over the profits of which he has disposing power which he may exercise for his own benefit, whether that property is held in his name of in the name of another but on his behalf, shall be liable to attachment and sale in execution of a decree.”

36. The Defendant has maintained that the suit property belonged to the Plaintiff in this suit and that the Objector has not filed any documents to prove that that the suit property belongs to her and not the Plaintiff and that the proclaimed goods were purchased by her and belonged to her. For this argument, this Honourable Court places reliance on the decision in “Duncan Kabui - Versus - Samuel Bede Igembo & Another [2014] eKLR” where it was held that: -

“It is my finding that the objector has not brought any evidence of any title or document of ownership to the motor vehicles that are the subject of the proclamation of attachment, and that she has not discharged her onus of proving her legal interest in the said motor vehicles. The sale agreement produced as evidence by the objector of the purchase of the said motor vehicles cannot on its own be evidence of any legal interest in the said motor vehicles. In addition, a sale agreement without any proof of consideration paid is only proof of an intention to sell and not of a binding contract.....an equitable interest in the said property can only arise upon proof of payment made pursuant to the said sale agreement, and the objector did not provide proof of any such payments made or consideration she had given pursuant to the said sale agreement.”

37. From the above cited authorities, I find that the law is very clear on the value of proof of ownership in as far as objections to proclaimed/attached properties are concerned and I do not intend to reinvent the wheel on the said subject. The Objector has listed 9 items which she had not provided evidence of ownership to. I am not satisfied that the Objector has presented to this Court sufficient proof of legal/ equitable interest on the attached goods, I therefore decline to lift the attachment of the goods listed by the Objector.
38. Turning to the issue of whether the Objector has made out a case for the granting of an injunctive relief, I find that the Objector has not demonstrated that she is entitled to the injunctive orders sought. I find that the Objection in respect of the attached goods does not meet the conditions set in “Giella – Versus - Cassman Brown & Co. Ltd [1973] EA 358” case for the granting of orders of injunction.
39. Having found that the Objector did not establish legal and equitable interest over all the attached properties, I find that nothing stands in the way of Alfajiri Auctioneers to stop the attachment of the abovementioned items that was scheduled on 16th January, 2023.



ISSUE No. b). Who will bear the Costs of Notice of Motion application 23rd February, 2023.

40. It is now well established that the issue of Costs is a discretion of the Court. Costs mean the award a party is awarded at the conclusion of a legal action or proceedings in any litigation. The provision of Section 27 (1) of the *Civil Procedure Act*, Cap. 21 holds that costs follow the events. By event it means the results or outcome of the legal action or proceedings. See the decisions of Supreme Court “Jasbir Rai Singh vs Tarchalan Singh eKLR (2014)” and “Cecilia Karuru Ngayo vs Barclays Bank of Kenya Limited, eKLR (2014)”.
41. In this case, as Court finds that the Objector/ Applicant has not demonstrated to this Honourable Court that the proclaimed goods belonged to her therefore, the Defendant/ Respondent has the costs of the application.

VI. Conclusion & Disposition

42. In long analysis, the Honorable Court has carefully considered and weighed the conflicting parties’ interest as regards to balance of convenience. Clearly, the Applicant has a case against the Respondent.
43. Having said that much, there will be need to preserve the suit land in the meantime. In a nutshell, I proceed to order the following:-
 - a. That the Notice of Motion application dated 19th January, 2023 by the Objector be and is hereby found to be unmerited and is dismissed with costs to the Defendant who participated in the hearing of the Application.
 - b. That the Defendant is at liberty to have their Auctioneer execute the warrants of attachment and sale the proclaimed goods as provided for by Law.
 - c. That now closes the case
 - d. That the Defendant/ Respondent is hereby awarded the costs of the Notice of Motion application dated 19th January, 2023.

It Is So Ordered Accordingly.

RULING DELIVERED THROUGH MICRO – SOFT VIRTUAL MEANS SIGNED AND DATED AT MOMBASA THIS 2ND DAY OF OCTOBER 2023.

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HON. JUSTICE L. L. NAIKUNI (JUDGE)

