



**First Community Bank Limited v ECO Oil Kenya Limited &
2 others; Zafk (K) Limited (Objector) (Civil Case 423 of 2018)
[2025] KEHC 1473 (KLR) (Commercial & Admiralty) (18 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1473 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND ADMIRALTY
CIVIL CASE 423 OF 2018
A MABEYA, J
FEBRUARY 18, 2025**

BETWEEN

FIRST COMMUNITY BANK LIMITED PLAINTIFF

AND

ECO OIL KENYA LIMITED 1ST DEFENDANT

YASSIN AHMED ABDULLAHI 2ND DEFENDANT

RAHMA MAHMOUD 3RD DEFENDANT

AND

ZAFK (K) LIMITED OBJECTOR

RULING

1. This is a ruling on the Objector's Motion dated 5/10/2023. The same was brought under Articles 40 and 159 of the Constitution of Kenya, Orders 22 and 23 of the Civil Procedure Rules amongst other provisions of the law. It sought the lifting or setting aside of the proclamation notice dated 2/10/2023 and an injunction to restrain the plaintiff from attaching the properties of the objector.
2. The grounds set out in Motion and affidavit of Mustapha Ramadhan sworn on 6/10/2023 were that; judgment was entered on 25/1/2019 against the defendants for US\$ 3,351,206/56 and Kshs. 8,832,370.74. That on 2/10/2023, Betabase Auctioneers proclaimed the properties of the objector. That the objector is not a party to this suit.



3. It was contended that the Proclamation Notice listed the properties belonging to the objector being “Monies held in the Account of ZAFY(K) Limited and All Properties held in the name of ZAFY (K) Limited.” That the objector was a different entity from the defendants’/Judgment debtors.
4. The Motion was opposed by the plaintiff through the affidavit of Claris Ogombo sworn on 13/2/2024. It was stated that pursuant to a search at the Companies Registry, it was discovered that the 2nd judgment debtor was the sole director and shareholder of the objector. That due to losses in the year 2017, the 2nd judgment debtor established the objector. That the 2nd judgment debtor transferred his assets to the objector during the pendency of the suit in order to defeat the decree.
5. That it was difficult for the objector to prove that its assets are different and distinct from those of the 2nd judgment debtor as he was the sole shareholder/director.
6. The parties filed their submissions dated 14/5/2024 and 24/6/2024 respectively. I have considered the said submissions and the authorities cited.
7. In an objection proceeding, it is incumbent upon an objector to prove that he is entitled to or has legal or equitable interest on the whole or part of the attached property. I have considered the supporting affidavit. All that has been exhibited are two documents, the proclamation notice dated 2/10/2023 and the Certificate of Change of name of the objector dated 19/8/2019.
8. A close look at the Proclamation Notice, it has disclosed that part of the items attached are “Monies held in the Account of ZAFY(K) Limited and Properties in the name of ZAFY(K) Limited.”
9. Clearly, the objector was not a party to this suit. It is a separate and distinct entity. Even if wholly owned or controlled by any of the judgment debtors, that does not make it liable for the debts of the judgment debtors. There are other processes that allow the plaintiff if it so wishes to extend that liability but not through proclamation as it sought to do here.
10. In this regard, I hold that to proclaim the Monies and properties in the name of ZAFY(K) Limited was irregular. A further scrutiny of the Proclamation Notice shows that there were other properties belonging to the judgment debtors that were proclaimed. The objector has not proved that the motor vehicles proclaimed and those properties identified in the said proclamation in the names of other parties belong to it.
11. Accordingly, the application succeeds only to the extent that those items or that part of the Proclamation dated 2/10/2023 that proclaims “ALL Monies in the Account of and All the properties in the name of ZAFK(K) Limited” be and is hereby lifted. The rest remains under proclamation.
12. Each party to bear own costs.

It is so ordered.

SIGNED AT NAIROBI THIS 12TH DAY OF FEBRUARY, 2025.

A. MABEYA, FCI Arb

JUDGE

DATED AND DELIVERED AT NAIROBI THIS 18TH DAY OF FEBRUARY, 2025.

F. GIKONYO

JUDGE

