



**MNK v PTM (Matrimonial Case E001 of 2025)
[2025] KEHC 2895 (KLR) (19 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2895 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MATRIMONIAL CASE E001 OF 2025
DO CHEPKWONY, J
FEBRUARY 19, 2025**

BETWEEN

MNK APPLICANT

AND

PTM RESPONDENT

RULING

1. Vide a Notice of Motion application dated 16th January, 2025, the Applicant/Petitioner, MNK seeks for orders:-
 - a. Spent.
 - b. Spent.
 - c. The Respondent, his agents, servants and or proxies be restrained forthwith by a temporary injunction from selling, transferring, alienating and or dealing with Motor Vehicles Registration Numbers KBD XXXP, KAT XXXXQ AND KCU XXXC pending the hearing and determination of the Originating Summons.
 - d. The Respondent, his agents, servants and or proxies do release Motor Vehicles Registration Numbers KBD XXXP, KAT XXXXQ AND KCU XXXC to the Petitioner/Applicant forthwith pending the hearing and determination of this application.
 - e. Respondent, his agents, servants and or proxies do release Motor Vehicles Registration Numbers KBD XXXP, KAT XXXXQ AND KCU XXXC to the Petitioner/Applicant forthwith pending the hearing and determination of the Originating Summons.
 - f. That the O.C.S. Tigoni Police Station do enforce the orders of this Court.



- g. That the Honourable Court be pleased to issue any other order it deems fit in the interest of justice.
- h. That the costs of the application be provided for.
2. The application is premised on the grounds set out on its face and reiterated in the Supporting Affidavit sworn by the Applicant/Petitioner on even date. According to the Applicant/Petitioner, the Respondent is her spouse, the two having gotten married in the year 2005 as evidenced by the Marriage Certificate (“MNK-1”). It is the Applicant’s/Petitioner’s case that during the subsistence of their marriage, they acquired various assets, the main one being six (6) lorries since they are engaged in the transport business known as Margaret Kiragu Thiong’o Trasporters Limited. She avers that one of the six (6) lorries, one being KBJ XXXXW is registered in the Respondent’s name while KBD XXXP is registered in their joint names. The rest, KAT XXXXQ, KCU XXXC, KDL 681U, AND KDM 259K are registered in her name since she purchased some of them on her own.
3. Further, the Applicant/Petitioner has averred that the Respondent’s mother called her for a meeting at Java Restaurant, Ridgeways where she informed her that the three Motor Vehicles KBD XXXP, KAT XXXXQ and KCU XXXC had been taken by this Respondent, parked at Tigoni and she was demanding that the Applicant accompanies her to NCBA Bank to have Motor Vehicles Registration KDL 681U which is secured by the bank to be transferred into her name and execute an agreement confirming that she had sold the said vehicles to her for Kenya Shillings Five Million (Kshs.5,000,000.00). the Applicant signed the agreement under duress but proceeded to lodge a caveat on the vehicles and all other vehicles they own with the Respondent. According to the Applicant/Petitioner, the vehicles are matrimonial property, the same having been acquired during the subsistence of the marriage with the Respondent. She also avers that they have a contract with DHL to use the vehicles and generate income which is utilized to service the loan, both secured and unsecured with different banks. The applicant, contends that having taken some of the vehicles, the Respondent may dispose of the same without the consent or even cause the same to be repossessed by the banks if the loans are not serviced, since he has tampered with their tracking system and their whereabouts are unknown.
4. The application and directions issued by this Court on 17th January, 2025 were served upon the Respondent on 20th January, 2025 and an Affidavit of Service filed to confirm this. However, the Respondent has neither filed a response to the application or attended court today for interparties hearing. There is even no representation to explain their absence.
5. In view of this, the Applicant sought for the application be deemed as unopposed and orders No.(3), (5) and (6) of the application be allowed.
6. Despite having been served with the application and directions issued therein, the Respondent and or counsel have neither entered appearance nor filed a response. They are also not in court today and have not sent representation to explain their absence.
7. In the circumstances, the Respondent having been served with the application as confirmed by the Affidavit of Service has failed to file a response or attend court for hearing, the Notice of Motion application dated 16th January, 2025 is hereby allowed and the following orders issue pursuant to the provisions of Order 10(3) of the Civil Procedure Rules:-
- a. The Respondent, his agents, servants and or proxies be and are hereby restrained forthwith by a temporary injunction from selling, transferring, alienating and or dealing with Motor Vehicles



Registration No.KBD XXXP, KAT XXXXQ AND KCU XXXC pending the hearing and determination of the Originating Summons dated 16th January, 2025.

- b. The Respondent, his agents, servants and or proxies to release Motor Vehicles Registration Numbers KBD XXXP, KAT XXXXQ AND KCU XXXC pending the hearing and determination of the Originating Summons.
- c. The O.C.S. Tigoni Police Station be and is hereby directed to enforce the orders of this Court.
- d. Being a family dispute, each party to bear their own costs of the application.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 19TH DAY OF FEBRUARY , 2025.

D. O. CHEPKWONY

JUDGE

