



**Nairobi Plastics Limited v Munialo & another (Suing as the administrators
of the Estate of Karano Omoit - Deceased) (Civil Case E773 of 2023)
[2025] KEHC 2227 (KLR) (Civ) (13 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2227 (KLR)

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

CIVIL

CIVIL CASE E773 OF 2023

JN MULWA, J

FEBRUARY 13, 2025

BETWEEN

NAIROBI PLASTICS LIMITED APPELLANT

AND

CELESTINE MUNIALO & ESTHER AUMA OMOIT' RESPONDENT

**SUING AS THE ADMINISTRATORS OF THE ESTATE OF KARANO OMOIT -
DECEASED**

RULING

1. The motion dated 7/02/2025(amended) has been argued by the parties and ruling reserved for 3/07/2025.
2. However, the issue of the release of the three commercial motor vehicles attached and being in possession of the respondent (Auctioneers) being Motor vehicle Registration Nos. KBB 629A, KCT 629 and KAS 629T for 10days today (13/02/2025) is the subject of this interim ruling.
3. The court has considered counsel arguments basically on the validity of the Bank guarantee issued to secure the due performance of the courts decree in the sum of Kshs. 5, 818,844/= dated 26/10/2023 and issued by I & M Bank in favour of the appellant herein, Plastics Limited through its advocates Kirimi Mbombua & Co. Advocates.
4. I have seen a letter dated 12/02/2025 addressed to the Deputy Registrar of this court, upon the courts request on 11/02/2025 to confirm whether the bank guarantee is valid and in force. The court did not require parties to file further affidavits to confirm the validity of the bank guarantee.



5. The Respondent's advocate Mogire Hezron has however proceeded to file a further affidavit he swore on 12/02/2025, which is okay. By the affidavit, it is confirmed that the guarantee is genuine but in his depositions states that the letter from the bank is escapist as it avoids to address why the bank has failed to honour the conditions specified in the guarantee hence frustrating the respondent.
6. The court is minded that the 3 commercial motor vehicles were attached ten days ago while the bank guarantee offered as security for the due performance of the courts decree pending hearing and determination of the appeal was in place and valid.
7. That being the position the court upon consideration of the above, the affidavits in support and in opposition, and while a substantive decision/ruling thereto will be delivered on 3/07/2025, it is the court's opinion that continued holding of the vehicles will cause more harm, loss and damage to the appellant while the decretal sum is secured by the bank guarantee.
8. It has not been shown by the respondent that the bank will fail to honour the guarantee when called upon to do so.
9. Therefore in the interim pending the substantive ruling on the 3/07/2025 and in the interest of justice and fair hearing on a level ground, the court finds it prudent to direct and order that the 3 vehicles namely KBB 629A, KCT 629W and KAS 629T be released forthwith by Interfiled Auctioneers, being agents of the Respondents upon payment of the Auctioneers reasonable fee and storage charges for the 10 days. Disagreement on the Auctioneers fees should not hold release of the vehicles as the Auctioneers have an option to tax their bill on costs
10. This is in the interim as the substantial ruling will be delivered on 3/07/2025, and further in recognition that the continued holding of the said commercial vehicles will cause more damage and loss to the appellant before the ruling is delivered.
11. The only rider the court shall impose on the appellant is that pending the ruling, the appellant shall not deal adversely with the said vehicles; by either attempting to sell parting with possession of the same, lease or use them as security in any institution as such related activities.
12. No further execution proceedings shall be undertaken until the substantive ruling is delivered on 3/07/2025.

Orders accordingly.

DELIVERED, DATED AND SIGNED IN NAIROBI THIS 13TH DAY OF FEBRUARY 2025.

JANET MULWA

JUDGE

