



**Juma t/a Carnelian Enterprises Auctioneers v Miano (Civil Appeal
E1489 of 2023) [2025] KEHC 3097 (KLR) (Civ) (6 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3097 (KLR)

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

CIVIL

CIVIL APPEAL E1489 OF 2023

AC MRIMA, J

MARCH 6, 2025

BETWEEN

**REHEMA M JUMA T/A CARNELIAN ENTERPRISES
AUCTIONEERS APPELLANT**

AND

JULIUS MAINA MIANO RESPONDENT

*(Being an appeal from the judgment and decree of Hon. H. Nyamweya in Nairobi
[Milimani] Small Claims Court Case No. E279 of 2023 on 29th November 2023)*

JUDGMENT

1. The main issue for determination in this appeal is whether the Appellant, an Auctioneer, was rightly found liable in the manner she executed Warrants of attachment in Nairobi [Milimani] CMCC Court Case No. E4668 of 2020.
2. There is no doubt the Appellant is a duly registered Auctioneer and executed warrants in the said Case No. E4668 of 2020. The Respondent's contention was that the Appellant wrongfully attached his motor vehicle registration number KCA 552L [hereinafter referred to as 'the vehicle'] and that she disregarded evidence of the Respondent's ownership [through the vehicle's logbook] which was availed to her at the time of attachment of the vehicle. When the Respondent instituted objection proceedings and served the application, the Appellant unconditionally released the vehicle before the application was determined. That was 18 days post the attachment.
3. The Appellant contended that she had conducted a search on the ownership of the vehicle with the National Transport and Safety Authority which, erroneously so, revealed that the vehicle belonged to one Joseph Ndungu Ndirangu, the judgment debtor in Nairobi [Milimani] CMCC Court Case No. E4668 of 2020.



4. The trial Court found the Appellant liable for wrongfully and without due care and diligence attaching the vehicle. On consideration of the evidence on the income generated through the vehicle, the Court found that an average daily income of Kshs. 4,000/= was proved and awarded it for the 18 days the vehicle was on the wrongful attachment. Judgment in the sum of Kshs. 72,000/= was entered with costs thereby prompting the appeal subject of this judgment.
5. Section 38 of the *Small Claims Court Act* [Cap. 10A of the Laws of Kenya] provides for appeals from decisions and/or orders of the Small Claims Court. Under that provision, a party may appeal to the High Court only on matters of law and that the decision thereof is final.
6. This Court has carefully considered this matter and agrees with the trial Court. There is evidence that the attachment was wrongful since the Appellant was availed with evidence on the ownership of the vehicle before the attachment, but she disregarded it with abandon. The evidence was the vehicle's logbook which indicated that the owner of the vehicle was the Respondent herein and not the judgment debtor in Nairobi [Milimani] CMCC Court Case No. E4668 of 2020. If it was true that the Appellant had been misled by the National Transport and Safety Authority on the ownership of the vehicle, then the Appellant may exercise her rights in law against the Authority otherwise her liability in the manner she executed the warrants of attachment against the vehicle remains solid.
7. The appeal is, therefore, unsuccessful and is hereby dismissed with costs.
Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 6TH DAY OF MARCH, 2025.

A. C. MRIMA

JUDGE

Judgment virtually delivered in the presence of:

Miss Waiganjo Learned Counsel for the Appellant.

Miss. Nyanjiru, Learned Counsel for the Respondent.

Michael – Court Assistant.

