



**Directline Assurance Company Limited v Okwanyson & another;
Joni Consult Auctioneers & another (Interested Parties) (Civil Appeal
E133 of 2023) [2025] KEHC 7645 (KLR) (4 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7645 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E133 OF 2023
A MABEYA, J
JUNE 4, 2025**

BETWEEN

DIRECTLINE ASSURANCE COMPANY LIMITED APPELLANT

AND

ELIJAH OMOLLOH OKWANYSON 1ST RESPONDENT

NILAM ENTERPRISES 2ND RESPONDENT

AND

JONI CONSULT AUCTIONEERS INTERESTED PARTY

DOE ANYUL & COMPANY ADVOCATES INTERESTED PARTY

RULING

1. On 17/5/2024, Aburili J delivered a Judgment in this matter which is on record.
2. On 20/5/2025, the trial court issued a warrant of attachment of the appellant's moveable property to Joni Consult Auctioneers of P. O. Box xxxx - 40100, Kisumu. The warrants were categorical that the decretal sum was for Kshs.18,910,000/-. The balance thereof was indicated to be the same, Kshs.18,910,000/-. Interest was shown to be Kshs.11,346,000/-. The warrants were for a total sum of Kshs.30,256,000/-.
3. Faced with the proclamation dated 21/5/2025, the appellant rushed to this Court on 26/5/2025 seeking a temporary stay. One of the grounds for stay was that the amount in the warrants were excessive since a guarantee of Kshs.17.5 million ordered by Aburili J for stay in October, 2023 had been encashed. That the said amount had not been taken into account in the said warrants.



4. The Court set down the Motion for directions on 28/5/2025 when all the parties appeared. For reasons of the illegal warrants, which were drawn and issued contrary to the provisions of Order 22 of the Civil Procedure Rules, this Court granted a temporary stay of execution of those warrants pending the hearing interpartes of the Motion on 24/6/2025.
5. On 29/5/2025, the appellant took out yet another Motion on Notice seeking to cite the firm of D. O. Anyul & Company Advocates and Joni Consult Auctioneers for contempt of that order. It was contended that all the parties knew of the orders as they were present during the proceedings of 28/5/2025. That notwithstanding that orders, the auctioneers had on 29/5/2025 removed the proclaimed items.
6. I have considered the record, the representations by the parties. There is no evidence that Joni Consult Auctioneers were personally served with the order. However, it is clear that they must have received instructions from the 1st respondent on whose behalf they were acting yet he knew of the order. Since they acted in contempt of that order, they must be made to understand that Court orders are not mere suggestions or mere declarations. They are directives that MUST be obeyed by all and sundry.
7. Knowing the consequences of finding them in contempt at this stage and for reason of absence of evidence of personal service, I refrain from convicting them at the moment. But I hereby issue summons to JONI CONSULT AUCTIONEERS, to appear before this Court physically on 24/6/2025 to show cause why they should not be held in contempt and be sentenced accordingly. There would be also consequences on their Licence to practice auctioneering as they have shown to be unfit to be Court officers when they do not consider or respect court orders.
8. Further, I grant prayer No. 3 of the Motion dated 29/5/2025 and direct that the same be complied with within 24 hours of service upon the Auctioneers being served with the order. The auctioneers are to return the said items to the appellant at their own costs and expense.
9. As regards, D. O. Anyul & Company Advocates, it only unfortunate that they have been dragged into this mud. They are a reputable Law firm practicing Kisumu. Mr. Anyul has clearly indicated that the said firm cannot and has never either disobeyed a Court order or advised any of its clients to do so. While I appreciate Ms. Muithraniah's apology and regret, that cannot assuage or compensate the damage caused by the insinuation that the said Advocates have run rogue and committed a contempt of court.
10. Accordingly, I strike out the name of D. O. Anyul & Company Advocates from these proceedings. Having opposed the same, they are entitled to costs of Kshs.25,000 payable within 14 days of today's date.

It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 4TH DAY OF JUNE, 2025.

A. MABEYA, FCI ARB

JUDGE

