



**Njenga & another v Inspector General of Police & another (Petition E434 of 2023)
[2025] KEHC 12812 (KLR) (Constitutional and Human Rights) (10 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12812 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
PETITION E434 OF 2023
AB MWAMUYE, J
SEPTEMBER 10, 2025**

BETWEEN

MARTIN MUNENE NJENGA 1ST PETITIONER

EFFICIENT DYNAMICS & SUPPLIES LIMITED 2ND PETITIONER

AND

INSPECTOR GENERAL OF POLICE 1ST RESPONDENT

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION . 2ND RESPONDENT

RULING

Introduction

1. The Applicant has filed the Notice of Motion dated 21st May 2025, seeking orders that:
 - a. Spent
 - b. That pending inter-parte hearing and determination of this Application, this Honourable Court be pleased to arrest the judgement scheduled for the 22nd day of May 2025.
 - c. That on health grounds, petitioners herein be granted leave to amend, file and serve the amended petition within sixty (60) days following the hearing and determination of this application.
 - d. That in the interim, a conservatory order be and is hereby issued restraining the respondents acting by themselves or any officers/agents under their command, from summoning, arresting, instituting, preferring, continuing and or registering any criminal charge(s) or continuing any intended criminal prosecution of the petitioners and/or their direct agents/employees in relation to their business of purchase, brokerage and sale of motor vehicles. If any criminal



charges have been registered and preferred against the petitioners, the same be stayed pending the inter-parte hearing and determination of the substantive amended petition.

- e. That costs be provided.
2. On 21st May 2025, this Court issued directions requiring the Petitioners to serve the application upon the Respondents and file an affidavit of service before the hearing date.
3. Despite these express directions, there is no evidence on record that the Applicant/Petitioners served the Respondents as directed. There is equally no affidavit of service filed.
4. Further, neither the Applicants/Petitioners nor the Respondents have filed any written submissions, responses, or supplementary affidavits following those directions. The matter has thus remained unprosecuted.
5. The Court cannot act in vain. The duty to comply with directions rests squarely on the party seeking the Court's discretionary relief.
6. In the present case, the Petitioners neither complied with the orders of the Court to serve the application nor provided any explanation for the failure. In the absence of proper service, the Respondents were denied their constitutional right to be heard under Article 50(1).

Disposition

7. Having carefully considered the pleadings, affidavits, and entire court record, I find that:
 - a. The Petitioners failed to comply with this Court's express directions issued on 21st May 2025;
 - b. There is no evidence that the Respondents were served with the application;
 - c. There has been no subsequent action taken by the Petitioners to prosecute the matter;
 - d. The Petitioners have not demonstrated any exceptional circumstances warranting the grant of the orders sought.
8. Accordingly, the Notice of Motion dated 21st May 2025 is hereby dismissed for want of prosecution and non-compliance with the Court's directions.
9. For that reason, a judgment date shall now be fixed, and the same shall be delivered virtually on 16th October 2025 at 10:30 a.m.
10. Costs shall be in the cause.

DATED, SIGNED, AND DELIVERED VIRTUALLY THIS 10th DAY OF SEPTEMBER, 2025.

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BAHATI MWAMUYE

JUDGE

In the presence of:

Petitioner in person: No appearance

Counsel for the 1st Respondent: Mr. Mulati h/b Mr. Achochi

Counsel for the 2nd Respondent No appearance

Court Assistant: Ms. Lwambia

