



**O.M Robinson & Co Advocates v Liya M.E Contractors Limited; Liya Motors Limited
(Objector) (Miscellaneous Case E006 of 2021) [2024] KEHC 6434 (KLR) (5 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6434 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
MISCELLANEOUS CASE E006 OF 2021
SM GITHINJI, J
JUNE 5, 2024**

BETWEEN

O.M ROBINSON & CO ADVOCATES APPLICANT

AND

LIYA M.E CONTRACTORS LIMITED RESPONDENT

AND

LIYA MOTORS LIMITED OBJECTOR

RULING

1. For determination is the notice of motion dated 20th April 2024 seeking the following orders;
 1. Spent.
 2. That pending the hearing and determination of this application, the honourable court be pleased to grant stay of execution of the judgment and/or decree made on 20th day of September 2022.
 3. That this honourable court be pleased to set aside the warrants of attachment issued on 18th April 2024 pending the hearing and determination of the application dated 28th November 2022.
 4. That costs of the application be in cause.
2. The application is premised on the grounds on its face and the supporting affidavit of George O. Mwimali the director of the Respondent/Applicant who deponed that judgment was delivered in favour of the Applicant by this honourable court on 17th October 2022. That aggrieved by the decision of the court, the Applicant herein filed a miscellaneous application to review the judgment through the firm of Khaminwa & Khaminwa Advocates who failed to properly represent them causing the



application be dismissed for want of prosecution. He stated that the said application was set for inter - partes hearings on 19th March 2024 but counsel for the applicant sought time to respond. It was stated that the matter was scheduled for mention on 6th May 2024 to confirm filing of submissions and take a ruling date in respect of the application dated 28th November 2022. That the applicant has instructed auctioneers who obtained warrants of attachment dated 18th April 2024 and if the court does not protect him from execution the application will be rendered nugatory.

Disposition

3. At the time of writing this ruling, there was no response on record to the application nor the parties' submissions. The applicant herein seeks stay of execution of the judgment and setting aside of the warrants of attachment dated 18th April 2024. I have perused the file and note from the proceedings that this court reinstated the Applicant's Application for review dated 28th November 2022. The said application was reinstated on 8th April 2024 and is yet to be dispensed with as parties had been directed to dispose the same by way of written submissions. In light of the above and given that the same is unopposed, I allow the same in terms of prayers 2 and 3. The costs of the application shall be in the cause.

RULING READ, SIGNED AND DELIVERED VIRTUALLY AT MALINDI THIS 5TH DAY OF JUNE, 2024.

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S.M. GITHINJI

JUDGE

In the Presence of:

Mr Mohamed holding brief for Mr Odhiambo for the Applicant

Mr George Mwimanyi – Respondent

Mr Victor Lukas – Objector

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S.M. GITHINJI

JUDGE

Mr Mohamed; - I apply for directions on the hearing of the application dated 28/11/2022.

Court; - The application dated 28/11/2022 has been canvassed by way of written submissions.

Ruling On 3/7/2024.

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S.M. GITHINJI

JUDGE

5.6.2024

