



**Mwangi v Home Africa Communities Limited (Miscellaneous  
Civil Application E742 & 812 of 2020 (Consolidated))  
[2024] KEHC 8471 (KLR) (Commercial and Tax) (12 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 8471 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
MISCELLANEOUS CIVIL APPLICATION E742 & 812 OF 2020 (CONSOLIDATED)**

**A MABEYA, J**

**JULY 12, 2024**

**BETWEEN**

**JOSPHAT NJOROGE MWANGI ..... APPLICANT**

**AND**

**HOME AFRICA COMMUNITIES LIMITED ..... RESPONDENT**

**RULING**

1. There is already a judgment in this matter. The judgment creditor has sought orders that an identified auctioneer be permitted to execute the balance of the decretal sum said to be Kshs. 9,462,727/=. This is by a Motion on Notice dated 17/3/2024.
2. Although the said motion was served way back in March, 2024, the same was not responded to. The Judgment debtor decided to oppose it by way of submission from the bar. It is opposed on the grounds that the title sought to be attached has been subdivided into separate plots and that the judgment debtor has not specified how much has been paid.
3. Since the judgment debtor did not file any affidavits, the submissions of learned counsel cannot lie. The application is unopposed. The issues raised by the learned counsel for the judgment debtor are issues that are usually settled by the Deputy Registrar at the stage of settling terms of sale under Order 22 of the *Civil Procedure Rules*. It is expected that at the time of attachment, the auctioneer would have carried out a search, place it before the Deputy Registrar before she can permit the sale of the attached property.
4. Accordingly, I find that the application is meritorious and I allow the same. The issues of advertisement et cetera are left to the auctioneer to undertake in terms of the relevant provisions of Order 22 of the *Civil Procedure Rules*.



It is so ordered.

**DATED AND DELIVERED AT NAIROBI THIS 12<sup>TH</sup> DAY OF JULY, 2024.**

**A. MABEYA, FCI Arb**

**JUDGE**

