



Mwenda & 2 others v OCS Railways Police Station & 2 others (Miscellaneous Criminal Case E097 of 2023) [2023] KEHC 4114 (KLR) (Crim) (10 May 2023) (Ruling)

Neutral citation: [2023] KEHC 4114 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
CRIMINAL
MISCELLANEOUS CRIMINAL CASE E097 OF 2023**

DR KAVEDZA, J

MAY 10, 2023

BETWEEN

**TIMOTHY MWENDA 1ST APPLICANT
ROBERT M. KITONGA 2ND APPLICANT
SETH AGONYA MASIZA 3RD APPLICANT**

AND

**OCS RAILWAYS POLICE STATION 1ST RESPONDENT
DIRECTOR OF PUBLIC PROSECUTION 2ND RESPONDENT
KENYA RAILWAYS CORPORATION 3RD RESPONDENT**

RULING

1. I have gone the Notice of Motion application dated May 4, 2023, the Certificate of Urgency and the Supporting affidavit of Sylvester KM advocate and issue the following orders:
 - a. This matter be and is hereby certified as urgent.
 - b. The orders issued on April 27, 2023 dismissing the applicants' application dated March 22, 2023 are hereby set aside and the status quo ante reverts, that is to say that the orders issued on March 29, 2023 (i) – (vii) shall remain in force.
 - i. Upon hearing a brief submission by all the parties, it is hereby ordered that the motor cycles be photographed and released to the applicants.
 - ii. An order do issue to NTSA to prohibit transfer of the motor cycles until this application is heard and determined.



- iii. The applicants are prohibited from disposing of the motor cycles pending hearing of this application.
- iv. The applicants shall present themselves with the escort of their counsel to PC Kiplimo to record statements.
- v. Ms Yala and Mr Kiragu to file their relevant responses within 14 days.
- vi. Mention on April 27, 2023 for directions.
- vii. Mr Metto has corresponding leave to file his response within 7 days.
- c. This order be served upon the Respondents to file their responses within 14 days of service.
- d. Mr Metto has correspond leave to file response with 7 days.
- e. Matter be mentioned on July 4, 2023 for directions.

RULING READ AND DELIVERED ON 10TH DAY OF MAY, 2023

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HON. DIANA R. KAVEDZA

JUDGE

