



REPUBLIC OF KENYA



KENYA LAW
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**Munga v Obuon & another (Civil Appeal E001 of 2023)
[2023] KEHC 20077 (KLR) (Civ) (11 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 20077 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E001 OF 2023

AN ONGERI, J

JULY 11, 2023

BETWEEN

SAMUEL HIUHU MUNGA APPELLANT

AND

DUNCUN OCHIENG OBUON 1ST RESPONDENT

RIEN COMPANY LTD 2ND RESPONDENT

*(Being an appeal from the judgment and decree of Hon. Judith
Omollo (SARM) in SCCC no. E821 of 2021 delivered on 16/12/2022)*

JUDGMENT

1. The appellant filed SCCC No E821 of 2021 against the two respondents seeking an injunction compelling the respondents to allow the appellant to access the NTSA portal for motor vehicle registration no. KCB 266Y to transfer the said motor vehicle.
2. The appellant was also seeking special damages of kshs.32,960 as compensation and also general damages for loss of business opportunity at the rate of ksh.6,000 per day with interest from 18/8/2021 until payment in full.
3. The 1st respondent filed a defence and counter claimed for ksh 153,367. The said out of a balance of kshs 253,367, only kshs 100,000 was paid leaving a balance of kshs 153,356.
4. The trial court entered judgment in the following terms:-
 - i. Judgment is entered for the respondent against the appellant for kshs 105,407.



- ii. Upon payment of (i) above, the respondents to remove the caveat laced at the NTSA portal for motor vehicle registration no KCB 266Y within 3 days failure to which the NTSA to effect the same.
 - iii. Each party to bear its own costs.
5. The appellant preferred this appeal against the said judgment and decree.
 6. The 1st respondent filed an application dated 10/5/2023 seeking to have the appellant cited for contempt of court for removing the caveat in total disregard to the order of the trial court before paying the kshs.105,407 as ordered by the court.
 7. The 1st respondent was not able to establish who removed the caveat and the application was dismissed.
 8. I find that the caveat having been removed, the substratum of this appeal has already been destroyed.
 9. I find that this appeal is an abuse of the court process.
 10. I dismiss the appeal and direct that the decretal sum be released to the 1st respondent forthwith.

DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 11TH DAY OF JULY, 2023.

.....

A. N. ONGERI

JUDGE

In the presence of:

.....for the Appellant

.....Present in person

..... for the 2nd Respondent

