



**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI COMMERCIAL & TAX DIVISION**

**CORAM: D. S. MAJANJA J.**

**MISCELLANEOUS CASE NO. E112 OF 2018**

**BETWEEN**

**ZAKHEM INTERNATIONAL**

**CONSTRUCTION LIMITED.....JUDGMENT DEBTOR**

**AND**

**QUALITY INSPECTORS LIMITED ..... DECREE HOLDER**

**AND**

**MARTIN KINUTHIA CHEGE ..... INTERESTED PARTY**

**RULING NO.5**

1. This application has been brought by the interested party, Martin Kinuthia Chege, seeking a vesting order for the Motor Vehicle Registration Number FAW BUS KCG 226A CHASSIS NUMBER FAD 82533, ENGINE NO. 52584453 which he purchased at a public auction held on 10<sup>th</sup> February 2020.

2. By a ruling dated 3<sup>rd</sup> August 2020, I dismissed the Judgment Debtor's application seeking to set aside the public auction that took place on 10<sup>th</sup> February 2020 after advertising the motor vehicle. Although the Judgment Debtor opposed the application on the ground that the interested party ought to have obtained leave to join the suit, I hold that the court dealing with execution is entitled to deal with all ancillary matters including vesting orders. The sale, which the interested party seeks to complete by the vesting order, is a direct result of an attachment and sale authorised by the court through execution proceedings. Since the sale has not been set aside, the vesting shall now issue.

3. I allow the Notice of Motion dated 4<sup>th</sup> August 2020 and order as follows:

(a) **THAT the Motor Vehicle Registration Number FAW BUS KCG 226A CHASSIS NUMBER FAD 82533, ENGINE NO. 52584453** which was sold at a public auction on 10<sup>th</sup> February 2020 be confirmed and made absolute in favour of **MARTIN KINUTHIA CHEGE** without any encumbrances, restrictions and charges and the Registrar of Motor Vehicles is directed to register the same at the applicants' cost.

**DATED and DELIVERED at NAIROBI this 9<sup>th</sup> day of SEPTEMBER 2020.**

**D. S. MAJANJA**

**JUDGE**

Mr Thuku instructed by Musyoki Benson and Associates Advocates for the Interested Party.

Mr. Makau instructed by Oluoch Olunya and Company Advocates for the Judgment Debtor and Auctioneer.

Mr. Muturi instructed by Mwaniki Gachoka and Company Advocates for the Decree-holder.