



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL AND ADMIRALTY DIVISION
CIVIL SUIT NO. 262 OF 2015

CAPTAIN SULEIMAN AMUR HAMUD.....PLAINTIFF

-VERSUS -

ONESMUS NGUNJIRI NJENGA.....1ST DEFENDANT

ROCK INVESTMENT COMPANY LIMITED.....2ND DEFENDANT

AND

WINFRED ACHIENG NJENGA.....OBJECTOR

RULING

1. The applicant, **WINFRED ACHIENG NJENGA**, has brought this application, seeking to stay the attachment of assets which she ownership over.
2. It is her case that she has a legal, equitable and rightful ownership over the assets in issue.
3. The applicant disclosed that she is the wife of the 1st Defendant, **ONESMUS NGUNJIRI NJENGA**. The 2 of them live at their matrimonial home at Lang'ata, Nairobi.
4. It is common ground that the objector is not a party to this suit. Therefore, if she was able to satisfy the court that the attached goods belonged to her, the court would be obliged to order that the attachment be lifted.
5. The objector also pointed out that many of the items which were attached were household goods, which were therefore not attachable.
6. There were also items which the objector described as wedding gifts which had been given to them at their wedding ceremony. In relation to the wedding gifts, the objector said that the same were of sentimental value.
7. In support of the application the objector produced some receipts.
8. The first receipt was issued by **TOUCH ENTERPRISES**, and it is dated 16th April 2015. The receipt is in relation to a desktop computer; a printer; UPs; a Dell Battery; a Power Adopter; and a multiplug.

9. However, the receipt is not in the objector's name. it was issued to **AMETHYT INTERNATIONAL**.

10. The objector explained that she is a consultant for Amethyst International, and that the said organization bought the items listed on that receipt for her use, when she was working.

11. The plaintiff has not challenged the factual narrative. Consequently, the same remains unchallenged.

12. And I find that the objector has demonstrated the nexus between her and those items as constituting an entitlement for the objector to claim an equitable ownership over them.

13. The following items can be designated as household goods;

a. 4 Burner (Grey) Gas Cooker

b. 13 kg gas Cylinder

c. Ramtons fridge

d. L.G. Microwave

e. Wall unit

f. Dining Table with 6 chairs

g. Floor carpet

h. Panasonic Radio with external speakers

i. Yamaha Piano

j. 7 setter sofa set.

14. Those items were found at the objector's matrimonial home. As they are items for use by the objector's household, the objector was entitled to claim an equitable interest in them.

15. In **HELLEN OLIMA Vs JOHN KIPKEMBOI KILEL Hccc No. 1016 of 2002**, Waweru J expressed himself thus, in relation to household goods which included a Sony hi-fi system; a cooker; a fridge; 2 sofa sets; a coffee table and a dining set;

"...being ordinary household items which were found in her own matrimonial home, where she lives, she obviously had an equitable interest in them, and I so find. It seems to me that a spouse will always have an equitable interest in all the household goods in his/her matrimonial home where he/she lives unless it can be shown that any particular item is legally and exclusively owned by the other spouse?."

16. Accordingly all the items listed above, and which are household goods, were not available for attachment.

17. That only leaves 2 items from the Inventory of the goods which were attached. Those 2 items are both motor vehicles, and their particulars are as follows;

1. BMW Motor Vehicle Registration No. KAK 700B; and

2. Motor Vehicle Registration No. KAJ 309C.

18. Neither of those vehicles belongs to the objector. According to the records from the National

Transport and Road Safety Authority, the vehicles belong to **BENSON NDUNGU KAMAU** and **MOBIL OIL KENYA LIMITED**.

19. Therefore, the objector does not have any legal or equitable interest in the 2 vehicles, which would have given her the requisite locus to bring an application to challenge their attachment.

20. Before concluding this ruling I feel obliged to address an issue which the objector and the plaintiff touched on: the issue concerns the knowledge, if any, which the objector may have had about the case herein.

21. In my considered view, it did not matter at all whether or not the objector had been aware of the case from the beginning. Even if she had known that her husband had been sued and that there was a judgement against the said husband, that would not have rendered the objector liable for the judgement-debt.

22. In conclusion the application is successful in relation to all the attached goods, with the exception of the 2 motor vehicles.

23. The plaintiff will pay to the objector the costs of the application.

DATED, SIGNED and DELIVERED at NAIROBI this 15th day of September 2016.

FRED A. OCHIENG

JUDGE

Ruling read in open court in the presence of

No appearance for the Plaintiff

No appearance for the 1st Defendant

No appearance for the 2nd Defendant

Miss Ombwege for the Objector.

Collins Odhiambo – Court clerk.