

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

H.C.C. CIVIL APPEAL NO.886 OF 1996

TYRE MASTERS LIMITED PLAINTIFF

VERSUS

JASWINDER SINGH VIRDI

T/A JASWINDER SINGH ENTERPRISES..... DEFENDANT

R U L I N G

This application by way of ex parte chamber summons brought under O.XXI Rule 87 Civil Procedure Rules and the Auctioneers Act No.5 of (1996) Rules 9 (a-c) seeks orders

- (1) That the Auctioneers namely DOLLAR AUCTIONS who were allocated warrants of attachment in this case be provided with police security from the nearest police station to supervise the said execution.
- (2) That this Honourable court do issue an order to break into the premises
- (3) That peace and order be maintained during the said exercise.

The applicant relies on his affidavit sworn on the 24th September 1998, in which he has deponed that after he was allocated warrants of attachment he proceeded to the defendant's godown at Embakasi Nairobi and took the inventory on 19th August 1998.

Thereafter he has made several attempts trying to gain entry into the godown but in vain. When on 27th September 1998 he sent his workers to effect the warrants, they were chased away by the workers of the Judgment Debtor. He now applies for orders

that he be assisted by the police to break into the godown of the respondent to attach the property therein.

It would be unlawful to utilize the police in a civil action for the purpose of breaking into the godown of the Respondent. It was so stated by the Court of Appeal in Civil application No.186 of 1992 between KAMAU MUCUHA and THE RUPPLES LTD.,

I decline to make an order that police assistance be enhanced to secure compliance of the Court Order by the Respondent.

This application therefore fails and the same is dismissed.

Dated and Delivered at Nairobi this 23rd Day of October, 1998

J.L.A. OSIEMO

JUDGE

