

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
COMMERCIAL & TAX DIVISION
HCCC NO. 166 OF 2012

KITEK (7) LIMITED.....
.....PLAINTIFF

-VERSUS-

CHAIRMAN - COLONEL CHARLES WANAKUTA
SECRETARY-COLONEL JOHN SWINFEN
ASSISTANT SECRETARY-COLONEL WYCLIFFE ANGOYA
THE TERRITORAL COMMANDER-JOHN MALABA
THE TERRITORAL COMMANDER-JOHN WAINRIGHT
THE TERRITORAL COMMANDER-WILLIAM ROBERTS
THE CHIEF SECRETARY - KENNETH G. HODDER
THE CHIEF SECRETARY-COL. GABRIEL KATHURI
THE CHIEF SECRETARY - BENJAMIN MNYAMPI
THE FINANCIAL SECRETARY - LT. COL. JEQEZA TIMOTHY
MBASO
(Sued in their capacities as officials of THE SALVATION
ARMY).....
..DEFENDANTS/APPLICANTS

RULING

1. The notice of motion dated 19th May 2025 was filed by the 1st defendants/ applicants. It is expressed to be brought under **sections 28, 29 and 66 of the Civil Procedure Act,**

Order 22 Rule 7 and Order 51 Rule of the Civil Procedure Rules, 2022.

2. The applicants seek the court's adoption of the Court of Appeal's judgment of 31st March 2023 and its orders of 8th November 2023 as the order and decree of the High Court. That upon adoption, the court issues warrants of attachment and sale to **Garam Investment Auctioneers** who have been nominated by the defendants/applicants to undertake execution.
3. The application is premised on the grounds delineated in its body and the supporting affidavit sworn by **LUCY MWAURA** on 19th May 2025.
4. The grounds are:-
 - (1) The plaintiff filed an appeal, and the defendants filed a cross-appeal before the Court of Appeal against the judgment of the court dated 9th June 2017 in this matter.
 - (2) The Court of Appeal overturned the judgment of the High Court, dismissed the appeal and allowed the cross-appeal.

(3) The defendants/applicants now wish to execute the order issued by the Court of Appeal.

(4) It is in the interest of justice that this application be granted as prayed.

5. There was no response filed by the plaintiff. There is no proof of service of the application.

6. The plaintiff is entitled to the right to be heard or an opportunity to file a response to the application. **Odhiambo Owiti & Co. Advocates v Dominion Farms Limited (Miscellaneous Civil Application 8 of 2019) [2022] KEHC 10147 (KLR) (18 May 2022) (Ruling)**

Disposal

7. The court therefore directs the 1st defendant to serve the application upon the plaintiff. The order scheduling this matter for ruling is, thus, vacated, and the matter is no longer for ruling. The application be fixed for HEARING. A notice thereof be served upon the plaintiff.

Dated, signed and delivered through Microsoft Teams online application this 25th day of September, 2025

F. Gikonyo M
Judge

In the presence of: -

- 1. Ms. Wangari for defendant**
- 2. N/A for Plaintiff**
- 3. CA Kinyua**