



**Assets Recovery Agency v Gamada (Civil Suit 1 of 2025) [2025] KEHC 14056 (KLR)
(Anti-Corruption and Economic Crimes) (8 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14056 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES
CIVIL SUIT 1 OF 2025
LM NJUGUNA, J
OCTOBER 8, 2025**

BETWEEN

ASSETS RECOVERY AGENCY APPLICANT

AND

ELIAS ENDALE GAMADA RESPONDENT

JUDGMENT

1. This court has been moved by the applicant vide the Originating Motion dated the 30th day of April, 2025. The same has been brought under Sections 81, 90 and 92 of the Proceeds of Crime and Anti-Money Laundering Act as read together with Order 51 of the Civil Procedure Rules.
2. It is premised on the grounds set out therein and its supported by the annexed affidavit sworn by PC Alfred Musalia, on even date and it seeks the following Orders;
 1. That this Honourable Court be pleased to issue an order declaring That the following funds are proceeds of crime and are liable for forfeiture to the government: -
 - a. USD 19,000 held at Assets Recovery Agency seized from the house of Elias Endale Gamada.
 2. That this Honourable court be pleased to issue orders of forfeiture of the funds held by Assets Recovery Agency to the Applicant on behalf of the Government;
 - a. USD 19,000 held at Assets Recovery Agency seized from the house of Elias Endale Gamada.



3. That the Honourable Court be pleased to issue an order That the USD 19,000 specified in Prayer 2 above be deposited into the Criminal Assets Recovery Fund Account Number 1292910038 held at Kenya Commercial Bank Limited, KICC Branch
 4. That this Honourable court do make any other ancillary orders it considers appropriate to facilitate the transfer of funds and assets forfeited to the Government.
 5. That costs be provided for.
3. It is the applicant's case That it received information That the Director of Criminal Investigations had arrested Girma Endale Gameda and Noor Ali Gamada who were residing at the residence of the respondent within the Vineyard Court, Milimani Estate in Kajiado County and That they were suspected of trafficking in Persons.
 4. That the applicant conducted investigations to identify, trace and recover proceeds of crime accrued to the respondent through the illegitimate dealing in trafficking of persons. That during arrest, a search was conducted on the residence of Elias Endale Gamada and the Officers from the Directorate of Criminal Investigations (D.C.I) recovered the following items among others;
 - a. 68 US dollars in denomination of 100 in number, one 20 US dollar bill and one-dollar bill
 - b. Ethiopian currency in the following denomination; 100 birrs 4 in number and 200 birrs 6 notes
 - c. A small box white in colour containing suspected narcotic drugs
 - d. Whitish substances in a clear polythene bag 14, 2,000 Birr and 1000 Sudanese Pound
 - e. High grade medical cannabis
 - f. Sixty-one thousand notes of Ksh 1,000 denomination
 - g. One hundred and fifty-seven notes of US dollars currency of a hundred denomination
 - h. Three notes US dollars of fifty denomination
 - i. Two notes of US dollars of twenty denomination
 - j. Safe Box Serial No. S/VA 2003200093399.
 5. The applicant states That on the 9th December, 2024, it opened an inquiry File No. 99 of 2024 to investigate and inquire into the legitimacy, source and destination of the above funds and Assets in the names of the respondent, for purposes of ascertaining whether the assets were acquired from or is a profit or benefit of proceeds of crime or used or intended for commission of crime.
 6. That the applicant obtained orders in Criminal Miscellaneous E1372 of 2024, seeking to access the Safe Box to obtain access and seize all contents in the safe including documentary evidence, sale agreements, transfers, undertakings, jewelry and any electronic devices (including flask disks, storage devices), any unexplained sum of money, or anything which is necessary for the conduct of investigations into proceeds of crime That may be contained in the safe box which orders were issued on the 19th December, 2024. That upon opening the Safe, the officers from the D.C.I recovered USD 19,000.
 7. The applicant avers That it reasonably beliefs That the respondent acquired the funds using illegitimate proceeds obtained from the illegitimate trafficking of persons and laundered by the respondent and his associates, contrary to the provisions of Counter trafficking in persons Act, 2010, Proceeds of Crime and Anti- Money Laundering Act, 2009 and Prevention of Organized Crimes Act 2010.



8. That the preliminary investigations have established That there are reasonable grounds to believe That the funds were obtained through the illegitimate trade in and dealing in human trafficking hence proceeds of crime contrary to the provisions of POCAMLA. That unless the court grants the orders sought, the economic advantage derived from the commission of crimes will continue to benefit a few to the disadvantage of the general public interest.
9. In response to the Originating Motion, the respondent filed a replying affidavit sworn on the 23rd June, 2025, in which he denied That the sum of USD 19,000 seized from his residence constitutes proceeds of crime neither was it acquired through, nor is it connected to, any unlawful activity, including the alleged offence of trafficking in persons, as falsely asserted but the applicant.
10. He stated That since the year 2024, his wife Rukia Dika Jattani, and himself have been actively and diligently preparing to relocate their family to the Republic of Ireland in pursuit of enhanced opportunities and permanent resettlement, and in preparation thereof, he initiated the process of obtaining passports for their children.
11. That in furtherance of the relocation, several close friends and relatives both within Kenya and abroad, voluntarily offered financial and logistical assistance to facilitate the move and these lawful contributions form the basis of the funds now under contention. That the said funds were securely stored in a safe within his residence purely for safe keeping and logistical convenience and this does not imply criminality on his part.
12. The respondent states That the funds contributed by Mr. Daniel Berhane Feshaye were remitted through their agents and received by his wife, Rukia Dika Jattani, who was overseeing the family's relocation logistics.
13. He contends That while his wife and himself maintains bank accounts for routine transactions, they opted to retain the subject funds in cash within their residence due to the urgent nature of their relocation plans, which necessitated immediate access to the funds for resettlement expenses. That, as a practicing Muslim, they are religiously obligated to avoid conventional interest bearing bank accounts in accordance with Islamic financial principles, and That their decision to store the funds securely at home was based on genuine religious and practical considerations and should not be misconstrued as indicative of unlawful conduct.
14. That seizure of the funds in December,2024 has stalled and has frustrated their plans, leaving their family in a state of uncertainty and emotional distress.
15. The applicant filed a Supplementary affidavit sworn by Alfred Musalia, on the 11th July, 2025
16. The applicant states That the respondent was charged with three counts; the offence of trafficking in narcotics contrary to Section 4 (a) of the Narcotics Drugs and Psychotropic Substances (control) Act No.4 of 1994, the offence of smuggling of human beings contrary to Section 53(1) (p) as read with Section 53(2) of the *Kenya Citizenship and Immigration Act* No 12 of 2011 and being in possession of Proceeds of Crime contrary to Section 4(c) of the POCAMLA in Criminal case No. E146 of 2025, Republic Vs Elias Endale & Girma. That during the raid at the respondent's house, the D.C.I officers recovered a small box containing suspected narcotic drugs which on being subjected to analysis at the Government Chemist were found to contain tetrahydrocannabinol and cannabidiol constituents of Cannabis.
17. The applicant states That further investigations have established That the respondent has been travelling to areas That are flagged out as human trafficking hub in Africa and That the respondent has not provided any evidence before the court regarding the source of the funds in question as he has



not attached any evidence to collaborate the source of funds as coming from close relatives and family friends within Kenya and abroad.

18. That the respondent has not demonstrated through documentary evidence the existence of any relationship between himself and the said Daniel Berhane Feshaye whom he claims are cousins or the alleged assistance That he received from him. The applicant averred That the transaction annexed by the respondent as Exhibit EGG-4 never occurred in the presence of the said notary public as alleged, the allegations therein are denied, and the respondent is put to strict proof thereof.
19. Further, That exhibit DB-1 does not in any way substantiate the existence of a legitimate business, That there is no evidence That the business is operational and there are incomes being generated from the alleged business or any evidence of payment of taxes or That the present funds are from the alleged business. The applicant reiterated That the respondent was charged with the offence of trafficking of narcotics and smuggling of persons and the money recovered in his house is reasonably believed to be benefits accrued from criminal activities.
20. The applicant contended That the contents of annexures EEG-5 to EEG-11 are unsubstantiated and states That the respondent used Tawakal Express to disguise the source of the funds which is believed was paid by individuals who were being smuggled by the respondent and Rukia Jattani was the conduit to disguise the source of the funds and launder the proceeds.
21. The applicant contends That the case before the court was not about the intended purpose of the money found in the respondent's residence but the source of the funds to which the applicant avers That the respondent has not provided any evidence as to the legitimate source.
22. On allegation That the funds were stored in the house in compliance with Islamic Financial Principles, the applicant denied the allegations and stated That there are Sharia -compliant banking options That are available in Kenya and Uganda and the actions of the respondent and his proxies were aimed at defeating and/or disguising the source of the funds. That there is no documentary evidence That has been attached to collaborate the allegation of relocation or That the funds in issue were for such purposes. That the respondent has not discharged the evidential burden as to the source of the money which he alleges were deposits from friends and relatives.
23. The respondent filed a further replying affidavit to respond to the supplementary affidavit. He states That while it is true That he has been charged with Criminal Case No. E146 of 2015, the said criminal proceedings are still ongoing and he has not been convicted of any offence and thus, he is entitled to the constitutional presumption of innocence under Article 50 of *the Constitution*. That at no point prior to his arrest was he summoned by the Directorate of Criminal investigations, nor was he ever requested to record any statement or respond to any allegations but he was abruptly arrested and arraigned in court on the 17th June, 2025 without any prior notice or investigations directed at him personally.
24. That he verily believes That the institution of the criminal proceedings against him was not driven by a fair and impartial investigation, but was instead influenced by extraneous considerations aimed at supporting the forfeiture proceedings already underway. That the complete absence of prior engagement with him by the investigative authorities including lack of summons, interview, or opportunity to respond to allegations cast serious doubts on the integrity of the prosecution and suggests That the criminal case was instituted not in pursuit of justice, but to lend legitimacy to the civil forfeiture application.
25. The respondent denied That any narcotic drugs were recovered from his personal possession or control. That the premises in question were shared by multiple individuals, and no direct or circumstantial



- evidence to connect him with the exhibits and That the applicant has not provided any evidence demonstrating That he was present at or in exclusive control of the said premises at the material time.
26. The respondent reiterates That the funds in issue were intended to support his planned relocation abroad as expressly stated by Daniel Berhane Feshaye and his sworn affidavit, which affidavits are sworn under oath and carry the sanctity and legal consequences of perjury if found to be false. He admitted having travelled to Uganda and Ethiopia for legitimate personal and family related reasons and to explore lawful business opportunities, and That at no point has he ever been investigated, interrogated, or charged in either jurisdiction and the mere frequency or destination of one's travel, without more, cannot, be construed as involvement in human trafficking or any other criminal activity.
 27. The respondent avers That the attempt by the applicant to summon Daniel Berhane and Rukia Dika at this stage amounts to a belated fishing expedition. That, the procedure applied in summoning them is flawed, the same were issued in bad faith as they were not served or delivered in a timely manner and That they were addressed to one Dickens Olwawa, a person who is neither known to him nor associated with persons allegedly summoned, and therefore the same were defective and of no legal effect having been misdirected and not served in accordance with Section 52 of the [National Police Service Act](#) or the applicable procedural. That, he has no legal capacity or obligation to procure the attendance of individuals who are not under his control, in that, Daniel Berhane resides in Uganda.
 28. That the issue before the court is not the business affairs of Mr. Feshaye but the source and purpose of the funds received by himself and That the said Feshaye has sworn under oath and has confirmed That the funds were a personal remittance. That the said declaration remains uncontroverted and forms part of the evidentiary record before the court and it is legally unsound and unreasonable for the applicant to demand further disclosures from a third party who is neither a suspect nor a party to these proceedings.
 29. The applicant filed a further Supplementary affidavit in which it has stated That a conviction in criminal proceedings is not a condition precedent to civil forfeiture and That the respondent has the onus to explain how they acquired the funds That are the subject of these proceedings and he has not discharged That burden.
 30. The applicant avers That the respondent has not corroborated any information regarding his travel visits and That the countries That he travelled are sources of smuggling of human beings business. Further, That he has not produced any evidence of him engaging in any form of business.
 31. The applicant contends That the alleged violations of the respondent's rights under Article 47 of [the Constitution](#) are not absolute but are limited under Article 24 which limitation has been justified as the said funds were suspected to be proceeds of crime and That when the respondent was summoned by the applicant, he did not highlight the sources of the funds in question. Further, That the respondent in his statement recorded on the 14th March, 2025, stated That the funds came from relatives but never provided any information of such remittances from the said relatives.
 32. The applicant has further stated That since Mr. Feshaye is adversely mentioned as the source of the funds as alleged by the respondent, this goes to the core of the present forfeiture application and it was necessary for the respondent to produce the said Feshaye for the applicant to verify the allegations. That the conduct of the respondent of failing to produce Fashaye is to frustrate the investigations and this only goes into the conduct of the respondent to disguise his criminal activities and the benefit accrued therein.
 33. The Originating Summons was disposed of by way of written submissions.



Applicant's Submissions

34. The applicant identified three issues for determination as follows;
- a. Whether the funds seized from the house of the respondent are proceeds of crime.
 - b. If issue No (a) is in the affirmative, whether the preserved funds should be forfeited to the Government.
 - c. Whether criminal culpability is a pre-condition for civil proceedings under part VIII of the *Proceeds of Crime and Anti-Money Laundering Act*.
35. On the 1st issue, the applicant submitted That USD 19,900 was seized from a house belonging to the respondent which the respondent has not denied That he was in occupation and control of. That aliens were found in a house in the name of the respondent within Vineyard court, Milimani Estate within Kajiado County and upon a search being conducted, money was recovered from the said house which funds forms part of this forfeiture application. That consequently, the respondent was charged with various offences as indicated elsewhere in this judgement.
36. The applicant submitted that, in a scheme of laundering designed to conceal, disguise the nature and source of the asset in issue, the respondent acquired the asset which is a benefit of criminal activity and which the applicant reasonably believes to be a proceed of crime. Reliance was placed on the case of Abdulrahman Mahmoud Sheikh & 6 others vs Republic & others (2016) eKLR. That, Kenya as a signatory to international convention in its Article 2 of *the Constitution* is required to enforce international convention through domestication of the said international obligations. That smuggling of persons is prohibited under the Palermo Protocol, a supplement to the UN Convention against Transnational Organized Crime (2000) and the International Covenant on Civil and Political Rights (ICCPR).
37. Further, trafficking of narcotics is equally prohibited through the UN Convention Against Trafficking in Narcotic Drugs and Psychotropic Substances (1988) and every state under Article 53 of UNCAC should provide for direct recovery of assets That are a benefit of the criminal offence.
38. The applicant submitted That aliens were found in the respondent's house and circumstantial evidence shows That the respondent frequently travelled to countries known to be sources of smuggling and despite the respondent claiming That he was exploring business ventures, there is no evidence of him ever engaging in any legitimate business. That the allegations That the funds are from Mr. Feshaye who is doing legitimate business in Uganda is a mere afterthought.
39. On the 2nd issue, it was submitted That the respondent has failed to discharge the burden of proof bestowed on them to explain how he acquired the funds in issue and therefore, the funds should be forfeited. The applicant cited the case of Assets Recovery Agency vs Joseph Wanjohi & another (2020) eKLR, Assets Recovery Agency vs Pamela Aboo; Ethics & Anti- Corruption Commission (Interested Party) (2018) eKLR.
40. On the 3rd issue, it was submitted that, Civil proceedings are proceedings in rem and That in the present application, the proceedings seek to determine the criminal origins of the funds in issue and are not a criminal prosecution of the respondent or individuals associated with him. Reliance was placed on the case of Director of Assets Recovery and Others, Republic vs Green & others (2005) EWHC 3168. Further That under Section 92(4) of the POCAMLA, a conviction is not required as a condition prior to a suit for recovery of assets reasonably believed to be proceeds of Crime.



Respondent's submissions

41. The respondent identified three issues for determination as follows;
 - a. Whether the applicant has proved, on a balance of probabilities, That the sum of USD 19, 900 constitutes proceeds of crime.
 - b. Whether the respondent has discharged the evidential burden by providing a credible and documented explanation of the lawful source of the said funds.
 - c. Whether, although criminal culpability is not a pre-condition under part VIII of POCAMLA, the absence of prosecution or conviction in this case undermines the applicant's claim and renders forfeiture unconstitutional.
42. The respondent submitted That the applicant has not discharged the legal burden placed upon it under Section 107 of the *Evidence Act* and Section 92 of the POCAMLA. That no cogent evidence has been placed before this court to demonstrate That the USD 19,900 constitute proceeds of crime, and That suspicion alone is not a substitute for proof. Reliance was placed on the case of PON vs Republic (2019) eKLR, Crim. No. NAI 16 of 2017 and That of Pamela Aboo vs ARA & another.
43. The respondent further submitted That the applicant has not placed any evidence to support its claim but has only relied on unsubstantiated allegations regarding the alleged offences and their supposed connection to the money in issue. That such statements, unsupported by documentary or forensic evidence, cannot satisfy the standard of proof required under Section 92 (1) of the POCAMLA. That the applicant has not produced any evidence to demonstrate That the respondent was aware of the presence of the alleged aliens found in his house, or of any other alleged criminal conduct said to have been taking place therein.
44. The respondent submitted That the applicant has not produced any evidence to demonstrate That the respondent was aware of the presence of the alleged aliens found in his house, or of any other alleged criminal conduct said to have been taking place therein. Further, That no evidence has been presented to show That any narcotics were ever recovered from the respondent's personal possession or control and That the premises where the narcotics were allegedly recovered were shared by multiple persons, and no link has been established to the respondent.
45. That an order for forfeiture cannot be made on mere speculation or unsubstantiated claims but the same must be founded upon cogent evidence meeting the statutory threshold. Reliance was placed on the case of Assets Recovery Agency vs Namunyu & 2 others (2024) KEHC 7954 (KLR). Further reliance was placed on Section 92(1) of the POCAMLA.
46. On the 3rd issue, the respondent submitted That he has discharged his evidential burden of the source of the USD 19,900 by providing documented explanations and supporting his explanations with cogent evidence. That the applicant's claim That the respondent did not use bank account so That he could conceal the illegality of the money is unfounded and unsupported as the money transfer service used by the respondent is lawful and duly registered, and the respondent has produced receipts of the transaction to support the legality of the funds.
47. It was also submitted That in addition, the respondent has provided an affidavit sworn by his close friend who was aware of his plans for relocation and was directly involved in the preparation for the same and who sent the funds held by the applicant. That Mr. Feshaye confirms That he remitted the funds in issue and That he operates a lawful and legitimate business in Uganda, which generated



the money. He relied on the case of Assets Recovery Agency vs Pamela Aboo; Ethics & Anti-corruption Commission (interested Party) eKLR par 57 & 58

Analysis and determination

48. The court has considered the Originating Motion and the supporting affidavits and all the affidavits filed in this matter in support of and in opposition to the same. The court has also considered the submissions That have been filed by the parties. The following are the issues for determination;
 - a. Whether the funds seized from the house belonging to the respondent are proceeds of crime.
 - b. If issue (a) above is in the affirmative, whether the preserved funds should be forfeited to the State.
49. The applicant herein has moved the court for an order declaring the sum of USD 19,000 which was seized from the respondent's house as proceeds of crime and That the funds be forfeited to the applicant on behalf of the Government. The application has been made Under Sections 81, 90 and 92 of the POCAMLA. The making of the forfeiture order is provided for under Section 92 and the High court has jurisdiction to make the order subject to Section 94. The order can be made if the court finds on a balance of probabilities That the property concerned;
 - a. Has been used or is intended for use in the commission of an offence; or
 - b. Is a proceed of crime.
50. From the reading of Section 92, the court can only order forfeiture of property if it is satisfied on a balance of probabilities That the said property is intended for use in commission of offence or it is a proceed of crime.
51. The applicant herein alleges That its investigations have revealed That the respondent executed a complex scheme of money Laundering designed to conceal, disguise the nature, source, disposition and movement of illicit funds, suspected to constitute proceeds of crime. The D.C.I officers arrested Girma Endale Gemedo and Noor Ali Gamada who were residing at the residence of the respondent within Vineyard court, Milimani Estate and the respondent was charged with the offence of trafficking in persons. During the arrest USD 19,000 was recovered from the respondent's house and in line with its mandate, the applicant conducted investigations to identify, trace, and recover proceeds of crime accrued to the respondent through the illegitimate dealing in trafficking of persons.
52. The applicant reasonably believes That the respondent acquired the funds using illegitimate proceeds obtained from illegitimate trafficking of persons and laundered by the respondent and his associates contrary to the provisions of counter Trafficking in Persons Act, 2010, *Proceeds of Crime and Anti-Money Laundering Act* 2009 and Prevention of Organized Crimes Act 2010.
53. The criminal case is still pending before the court and even if it had been finalized, its outcome would not have any bearing on this matter as civil forfeiture targets the property but not the person, and are proceedings in rem as opposed to in persona. As such, they are not predicated on the guilt or otherwise of a person, See the case of NDPP vs Prophet (5928/01 (2003) ZAW CHC16, South African case.
54. In fact, a claim for civil recovery can be determined on the basis of conduct in relation to property without the identification of any particular conduct. In the case of Kenya Anti-Corruption Commission vs Stanley Mombi Amuti (2017), the learned Judge while dealing with forfeiture



proceedings under Section 53 of the ACECA which is similar to proceedings under Section 92 of the POCAMLA stated;

“92. This is a claim for civil recovery. A claim for civil recovery can be determined on the basis of conduct in relation to the property without the identification of any other particular unlawful conduct. The Plaintiff herein, is therefore, not required to prove That the defendant actually committed an act of corruption in order to invoke the Provisions of ACECA”.

55. Similarly, in the case of Assets Recovery Agency vs Pamela Aboo and the case of Director of Assets recovery and others, Republic vs Green & others (2005) EWHC3168, the court stated that:-

“In civil proceedings for recovery under Part 5 of the Act, the Director need not allege the commission of any specific criminal offence but must set out the matters That are alleged to constitute the particular kind or kinds of unlawful conduct by or in return for which the property was obtained. I opine That forfeiture is a fair remedy in this instance as it serves to take away That which was not legitimately acquired without the stigma of criminal conviction. Criminal forfeiture requires a criminal trial and conviction while civil forfeiture is employed where the subject of inquiry has not been convicted of the underlying criminal offence, whether as a result of lack of admissible evidence , or a failure to discharge the burden of proof in a criminal trial.”

56. Section 2 of the POCAMLA defines proceeds of crime as follows;

“proceeds of crime” means any property or economic advantage derived or realized, directly or indirectly, as a result of or in connection with an offence irrespective of the identity of the offender and includes, on a proportional basis, property into which any property derived or realized directly from the offence was later successively converted, transformed or intermingled, as well as income , capital or other economic gains or benefits derived or realized from such property from the time the offence was committed.”

57. In Assets Recovery v Namunyu & amp; 2 others (2024) KEHC 7954 (KLR) the court held as follows in the matters of standard and burden of proof in civil forfeiture: The generic term “burden of proof” entails the legal burden of proof and the evidential burden.

“80. Legal burden lies with the applicant or the person who alleges. Legal burden does not shift.

81. Evidential burden initially rests with the applicant. But as preponderant evidence is adduced, evidential burden shifts to the party who would fail without further evidence.

82. Where evidential burden has shifted to the defendant, he must discharge it lest he should fail. This is what is commonly known as rebuttal. Of importance, evidential burden is only discharged through evidence (s. 90 (4), POCAMLA, s 55(5) of ACECA and not through mere statements or allegations of the sources or legitimacy of the money. The thread running through statutes on civil forfeiture requires such testimony and other evidence as the court deems sufficient, to satisfy the court That the property is not proceeds of crime or unexplained assets.”



58. It is the respondent's case That he has discharged his evidential burden of the source of the USD 19,000 in issue by providing documentary evidence. He contends That the source of the money is from close friends, family members both from Kenya and abroad who offered financial and logistical assistance to assist in his relocation plans to the Republic of Ireland. To his affidavit, he has attached an affidavit sworn by one Daniel Berhane Feshaye whom he has described as his cousin. He has deponed That between the years 2023 and 2024, he voluntarily extended financial assistance to the respondent and his family to support their intended relocation.
59. He further stated That a total of USD 26, 816 was raised out of which USD 19,900 being the subject of this suit , comprises both the financial contribution and payments made for livestock purchase. He has named a number of individuals through whom, the funds were remitted whom he states are personally known to him and who routinely assist him with financial transactions.
60. He states That the funds That he contributed were lawfully obtained from his legitimate business activities, more specifically the operation of his lounge business in Kampala, Uganda. Further That the funds were transmitted through Tawakal Express and were received by Rukia Dika Jattani, and he has annexed documents in support of the remittances. Though he states That he runs a legitimate business in Uganda and which was the source of the money That he sent to the respondent, he has not provided any evidence to proof the source of the money and That the same was from a lawful and legitimate source. Though he attached a certificate of incorporation, there is no evidence That the business exists and That it is a legitimate business.
61. Further, in his affidavit he has listed some names of the people who contributed the money. The court has not been told and no evidence has been provided to this court of the sources of the money That was sent to the respondent by those individuals. The court has not been told what the other people who contributed the money do for a living and their sources of income, yet he himself found it important to try and explain though unsuccessfully, the source of the funds That he allegedly sent to the respondent. According to him part of this money That was sent to the respondent through the wife was for livestock purchase. It is important to note That no breakdown was given of how much money was for livestock purchase and how much was financial contribution from the listed individuals. Further, there is no evidence of existence of the livestock business. These were just assertions That were not substantiated in any way and which the court cannot just take on the face value.
62. The subject funds were recovered from the respondent's residential house and this has not been denied. He has admitted in his affidavit That he runs bank accounts in three different Banks to wit, Stanbic, K.C.B and Absa Banks. This court takes judicial notice of That fact and what the court can deduce from this, is That the respondent is a knowledgeable person who understands and appreciates the importance of banking money in bank account, otherwise why would one have three bank accounts, if not to deposit money in them? Why would a person keep a whopping USD 19, 000 in a safe at home and not in his bank account?
63. The explanation given by the respondent for keeping the money in his house is one That no reasonable person would take. I say this because even if he had kept the money in any of his bank accounts, nothing or no one would refuse him from accessing the money if and when he needed it and in any event, the money would be safer in the bank than at home? What could have been his motivation in taking That risk? The only reasonable explanation is That he was concealing the source of the money as it was not legitimately acquired!
64. As submitted by the applicant, the issue is not just the source of the money but also whether the source was legitimate or not. The definition of proceeds of crime is broad as to cover funds in the hands or acquired from third parties and the respondent's case is not an exception and especially after



the applicant has laid before the court reasonable basis That the respondent was involved in human trafficking and That he was involved in narcotics drugs.

65. It is my considered view That the respondent failed to discharge the evidential burden of proving That the funds were from a legitimate source. On the other hand, I find That the applicant has discharged its legal burden.

66. In the end, the court grants prayers (1), (2) and (3) of the Originating summons.

67. The applicant is granted the costs of the suit.

DATED, SIGNED AND DELIVERED VIRTUALLY ON THIS 8TH DAY OF OCTOBER, 2025

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L.M. NJUGUNA

JUDGE

In the presence of:-

Mr. Githinji for the applicant

No appearance for the respondent

Court assistant - Adan

