



**Kuria v Transafrica Motors Limited (Civil Appeal E040 of 2024)
[2025] KEHC 15148 (KLR) (28 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15148 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CIVIL APPEAL E040 OF 2024
KW KIARIE, J
OCTOBER 28, 2025**

BETWEEN

NAFTALY MBARU KURIA APPELLANT

AND

TRANSAFRICA MOTORS LIMITED RESPONDENT

*(Being an Appeal from the ruling and order in Engineer Senior Principal Magistrate's
Civil Case No. E137 of 2024 by Hon. H. Adika –Senior Principal Magistrate.)*

JUDGMENT

1. On the 17th day of December 2024, Hon. Adika delivered a ruling on the application dated the 30th day of September 2024.
2. The appellant was aggrieved by the ruling and filed this appeal. The firm of Bedan Njeri & Company Advocates represented him. He raised the following grounds of appeal:
 - a. The learned magistrate erred both in law and in fact in making a finding that the appellant had failed to provide the most recent copy of records despite having provided a copy of records dated 22/8/2024.
 - b. The learned magistrate further erred both in law and in fact in failing to consider that Trans Africa Motors Limited is listed as the owner of motor vehicle registration number KCE 948X. In contrast, Line Enterprises Limited is listed as the financier in the copy of the records dated August 22, 2024.
 - c. The learned magistrate erred in law by misapprehending and failing to appreciate the applicable legal principles guiding motor vehicle ownership as provided under the clear provisions of Section 8 of the *Traffic Act*, Cap 403, Laws of Kenya.



- d. The learned magistrate erred both in law and in fact in failing to appreciate and consider the grounds relied upon by the appellant in the reply hint affidavit sworn on 7/10/2024 and further ignored the appellant's written submissions and the cited authorities and, therefore, arrived at a wrong conclusion.
3. The respondent opposed the appeal through Okwiri & Company Advocates. It was argued that the respondent was wrongly sued, for he was not the owner of the motor vehicle registration number KCE 948X.
4. This Court is the first appellate court. I understand my duty to evaluate the entire evidence on record, bearing in mind that I had no advantage in seeing the witnesses testify and observing their demeanour. I will be guided by the pronouncements in the case of *Selle vs Associated Motor Boat Co. Ltd.* [1965] E.A. 123, where it was held that the first appellate court must reconsider and evaluate the evidence presented before the trial court, assess it, and make its conclusions in the matter.
5. The respondent applied to have their name struck off from the proceedings in the Lower Court, and this application was granted. It was argued in the application that the applicant was an improper party to the proceedings, being a company engaged in selling motor vehicles.
6. In the impugned ruling, the learned trial magistrate contended that the appellant failed to produce the most recent copy of the records. With respect, this was an erroneous observation. The copy of records that the appellant provided indicates the position as of 22nd August 2024. This was the most recent copy of the records at the time the appellant filed the suit on September 2, 2024. In this copy of the record, Transafrika Motors Limited is identified as the owner.
7. The ruling is quashed and set aside. The matter should be allowed to reach its logical conclusion. The appeal is allowed with costs.

DELIVERED AND SIGNED AT NYANDARUA, THIS 28TH DAY OF OCTOBER 2025

KIARIE WAWERU KIARIE

JUDGE

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