

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS  
COURT AT NAIROBI  
CAUSE NO. E767 OF 2021  
ROSE WANJA MUTUAH  
CLAIMANT  
v  
TRACOM SERVICES LTD  
RESPONDENT**

**RULING NO. 4**

1. Through a Summons dated 1 July 2025,

Rose Wanja Mutuah Kiarie (the Claimant)

seek orders:

(i) ...

(ii) THAT the Honourable Court be pleased to grant breaking orders to access the

Respondent/judgment debtor's

**NAIROBI** premises at Springette Office

Park in Spring Valley and cause to be moved the proclaimed property in execution of the decree of this Court.

(iii) THAT the breaking orders be supervised and enforced by the

OCPD - Spring Valley Police Station.

(iv) THAT the costs of this application be provided for.

2. The grounds in support of the Summons were that the Court had delivered judgment in favour of the Claimant on 16 November 2023; auctioneers were instructed to execute and proclaimed the Respondent's properties on 4 July 2025; on 15 July 2025, the Respondent's staff violently and physically resisted execution and that it was fair to grant the orders sought.

3. The Duty Court directed the Claimant on 21 July 2025 to serve the Summons ahead of further directions on 30 July 2025. On 30 July 2025, the Court directed the filing and exchange of responses and submissions.

4. The Court also directed the Respondent not to interfere with the proclaimed properties pending further proceedings before this

Court on 25 September 2025. The Court gave further directions on 25 September 2025 and 30 September 2025.

5. On 12 August 2025, the firm of AL & C LLP Partners Advocates filed a replying affidavit sworn by the Respondent's Managing Director.

6. The Managing Director deponed the affidavit that the judgment under execution was under appeal before the Court of Appeal, though Civil Application No. E376 of 2024, *Tracom Services Ltd v Rose Wanja Mutuah*; the Respondent had not caused a violent resistance to execution; the orders sought were **drastic and unwarranted**; the Respondent was ready to comply with lawful execution and that the Summons should be dismissed with costs.

7. The Claimant filed her submissions on 19 November 2025.

8. The Court has considered the Summons and affidavits on record and makes the following determinations.

9. One, the firm of AL & C LLP Partners Advocates are not regularly on record. It did not seek or obtain leave of the Court to come on record.

10. Two, the Respondent has not denied the existence of a valid judgment/decree against itself. It purports to refer to a pending appeal as justifying the failure to satisfy the decree.

11. However, there is no order of stay of the execution of the decree either from this Court or the Court of Appeal.

12. Lastly, the Respondent has not given a justifiable explanation why it has declined to satisfy the decree or why the execution could be deemed to be unlawful.

13. The Claimant is entitled to enjoy the benefits accruing from the decree within a reasonable time as part of the right to a fair hearing.

## Orders

14. The Summons dated 17 July 2025 is allowed in terms that:

(i) THAT the Honourable Court hereby issues orders allowing the auctioneers to break into the Respondent judgment debtor's premises at Springette Office Park in Spring Valley and cause to be moved the proclaimed properties which have not been affected by Objection proceedings in execution of the decree of this Court.

(ii) THAT the breaking orders be supervised and enforced by the Officer Commanding Police Station - Spring Valley Police Station.

15. The Claimant to have the costs of the Summons.

**Delivered virtually, dated and signed in Nairobi  
on this 20<sup>th</sup> day of November 2025.**

**Radido Stephen, MCI Arb  
Judge**

**Appearances**

For Claimant

Mukunga

Wathome & Co.

For Respondent

Advocates

Kwamboka Marie

& Associates

Advocates

Court Assistant

Wangu



**NAIROBI**