

**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**

AND

**AMON MUTURI KIARIE
OBJECTOR**

EMPLOYMENT AND LABOUR RELATIONS COURT

RULING NO. 2

1. Through a Motion dated 25 July 2025, Amon Muturi Kiarie (the Objector) seek orders:

(i) ...

(ii) ...

(iii) ...

(iv) ...

(v) **NAIROBI**

(vi) The Honourable Court be pleased to declare that the subject motor vehicles are not the property of the judgment debtor and are therefore not liable to attachment

or sale in satisfaction of the decretal sum.

(vii) This Honourable Court be pleased to set aside and/or revoke the proclamation notice dated 4th July 2025.

(viii) Costs of the application be provided for.

2. The grounds in support of the Motion were that the Claimant caused to be proclaimed motor vehicles registration numbers KCM 482D and KCE 127S on 4 July 2025; the Objector was the legal and beneficial owner of motor vehicles registration numbers KCM 482D 762M and KCE 127S, respectively, from 2015 having purchased the same from the Respondent and that he was an innocent purchaser without notice.
3. The Claimant filed a replying affidavit in opposition to the Motion on 29 September 2025.

4. In the affidavit, the Claimant deponed that the auctioneers she had instructed had ascertained that the 2 motor vehicles were still registered in the Respondent's name at the time of proclamation; the Objector had not produced any evidence of payment of purchase price, and that the Objector was closely associated with the Respondent and the Objection was meant to scuttle execution.

5. The Objector filed a further affidavit and submissions on 15 September 2025. In the further affidavit, the Objector deponed that he purchased the motor vehicles on 21 February 2024 and 1 February 2025.

6. The Claimant's advocate filed a further affidavit on 29 September 2025, challenging the competency of the firm of Kagwe, Kamau & Karanja Advocates to act for the Respondent. She filed submissions on 19 November 2025.

7. The Court has considered the Motion, affidavits, and submissions and makes the following determinations.
8. One, the proclamation was conducted on 4 July 2025.
9. Despite the Claimant deponing that the owners of the 2 vehicles had been ascertained at the time of the proclamation, no evidence of the ownership was placed before the Court.
10. Two, the copies of Motor Vehicle Records placed before the Court show that the Objector was the registered owner of the 2 vehicles as of 25 July 2025.
11. The records do not show ownership as at the date of proclamation on 4 July 2025.
12. Three, a copy of a sale agreement in respect to motor vehicle registration number KCE 127S and dated 21 February 2024, indicates that the Respondent sold the vehicle to Sahani Yetu Fish Farming Ltd. The Objector

did not explain the relationship between himself and Sahani Yetu Fish Farming Ltd.

13. Four, the relevant period of ownership should have been 4 July 2025 when the proclamation was done, but the Claimant did not place any evidence before the Court that the Respondent was the legal or beneficial owner of the motor vehicles as of that time.

14. For the record, the Court will not address the competency of the Notice of Appeal and/or the coming on record of the firm of Kagwe Kamau & Karanja, as the issue is not determinative of the application herein.

Orders

15. The Motion dated 25 July 2025 is allowed in terms that the proclamation and or attachment of motor vehicles KCM 482D and KCE 127S are lifted.

16. No order on costs.

Delivered virtually, dated and signed in Nairobi on this 20th day of November 2025.

Radido Stephen, MCI Arb
Judge

Appearances

For Claimant

Mukunga

Wathome & Co.

Advocates

For Respondent

Kwamboka Marie

& Associates

For Objectors

Advocates

Mackenzie &

Wesonga

Advocates

Court Assistant

Wangu



NAIROBI