



Asset Recovery Agency v Amin (Anti-Corruption and Economic Crimes Civil Suit E027 of 2025) [2025] KEHC 17430 (KLR) (Anti-Corruption and Economic Crimes) (28 November 2025) (Judgment)

Neutral citation: [2025] KEHC 17430 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES
ANTI-CORRUPTION AND ECONOMIC CRIMES CIVIL SUIT E027 OF 2025
BM MUSYOKI, J
NOVEMBER 28, 2025

BETWEEN

ASSET RECOVERY AGENCY APPLICANT

AND

AHMED NUR AMIN RESPONDENT

JUDGMENT

1. The applicant has approached the court seeking to have the following assets declared proceeds of crime and forfeited to the government pursuant to Section 81, 90 and 92 of the *akn ke act 2009 9 Proceeds of Crime and Anti-Money Laundering Act* (hereinafter referred to as ‘POCAMLA’);
 - a. Motor vehicle registration number KBQ 199X, chassis number NT30-133917 (hereinafter referred to as ‘the vehicle’); and
 - b. Kshs 198,639.85 in account number 2052650545 held at Absa Bank Meru branch together with all interest accrued therein (hereinafter referred to as ‘the account’).
2. The originating motion is supported by affidavit of Peter Mutisya dated 2nd July 2025 and further affidavit of Martin Samburumo sworn on 2nd July 2025. According to the averments in the affidavits, the applicant received information of drug trafficking and money laundering involving the respondent using the vehicle where the money would be deposited in the account. The vehicle was on 24-10-2024 spotted at Kambi Samaki along Garbatulla-Isiolo highway and when it was flagged down, it defiled forcing the officers to fire shots to deflate its tyres. The vehicle stopped and the occupants fled abandoning it.



3. A search conducted in the vehicle recovered 44 bales of dry plant material weighing 222.35 kilogrammes among other things and after the plant material was subjected to tests at the government chemist, it turned out to be cannabis sativa. The drug was said to have a street value of Kshs 6,670,500.00. A search of the details of the vehicle revealed that it belonged to the respondent following which he was charged with others in Isiolo Magistrate's court criminal case number E591 of 2024 with the offence of trafficking narcotic drugs.
4. It is also deponed that the applicant carried out investigations which revealed a network of laundering of money involving the respondent's mobile phone and other people named as Farhiya Noor Amin (his sister) and Amina Noor Amin (his sister). It was averred further that the respondent's said sisters have transacted with other drug trafficking suspects named as Habiba Guyo Chude, Amina Osman Kabunge ad Ibrahim Gina Liga. It was also deponed that this court has already forfeited assets of Amina Osman Kabunge after declaring them proceeds of crime. It is alleged that between 2020 and 2024 alone, the respondent's mpesa account line number 0710500481 received a total credit of Kshs 77,456,869.26.
5. The applicant alleges further that after the respondent's mobile phone was confiscated on 7-11-2024, he on 22-11-2024 opened the account at Absa and deposited Kshs 250,000.00 on 5-12-2024 as he had no mpesa account where he could deposit the money. Before then, the respondent had made transactions of Kshs 2,829,900.00 in his bank account domiciled in the Cooperative Bank between 27-08-2018 and Kshs 4,292,000.00 in another account domiciled at Equity Bank. Of interest in the above transaction is that the respondent was transacting with people who have been implicated in illegitimate businesses. These two accounts were inactive and the respondent was transacting through his mpesa line only. There were two withdrawals from this account leaving the balance which the applicant is pursuing.
6. It is deponed further that the investigator traveled to Meru on 26-05-2025 with intention of recording statement from the respondent but the respondent refused to record any and stated that he would not record any statement in absence of his advocate.
7. The applicant tried to reach the person the respondent has been linked with but the investigators hit a dead end. This included the sisters of the respondent who he claimed had a business in Nairobi and who used to help him in conducting his miraa business. The applicant's suspicions on the respondent's conduct were raised further by the peculiar habit of the respondent and his business associates of registering mpesa lines and abandoning them and registering others.
8. The respondent opposed the application through his replying affidavit dated 16th September 2025 in which he depones that, he owns the vehicle which he bought from his cousin one Fraiha Birik Hassan on 25th April 2024 who had bought it from the respondent's sister one Farhiya Noor Amin. He alleged that he used the vehicle for transporting miraa and he would also hire it out to people transporting miraa from Maua to Moyale, Marsabit and Wajir.
9. He added that on 15th October 2024, he got a client by the name Ali Mohamed Hussein who hired the vehicle for a week and they entered into an agreed before an advocate after which he released the vehicle and while he was at home in Meru on 26th October 2025, he received a call from a friend that the vehicle had been abandoned at Garbatulla and had been towed to a police station.
10. He added that he was arrested on 9th November 2024 while at home upon which he told the police officers that the vehicle had been hired by a customer who told him that he was going for a burial in Wajir and showed them papers that confirmed that he had been hospitalized at Meru General Hospital.



The respondent claimed that he could not reach the person who had hired the vehicle as his phone was off.

11. The respondent added that he did not know the business his sister had done with Habiba Guyo Chude, Amina Osman Kabunge and Ibrahim Gina Liga who had been charged in JKIA law courts. He also alleged to be engaged in business of buying and selling sugar from Meru and reselling it in Garissa, Marsabit and Moyale and also buying sugar from Moyale and reselling in Nairobi. He explained his transaction with his two sisters by stating that they would send him money to purchase goods for them in Meru for their wholesale businesses in Nairobi.
12. I have read the application, and the affidavits in support and in opposition of the same and the submissions of the parties. The burden of proof placed on the shoulders of the applicant is to establish a prima facie case on a balance of probabilities against the respondent. Once that is done, the respondent should then in order to avoid the assets being forfeited to the government, discharge the evidentiary burden which basically means that he must show to the satisfaction of the court that he had legitimate sources of income and that the assets were not proceeds of crime. In other words, the respondent must answer to the prima facie case established by the applicant. In *Assets Recovery Agency v Sharif (2025) KEHC 13774 (KLR)*, Honourable Justice Prof Sifuna held that;

‘The burden borne by the subject to explain, is only an evidentiary burden, and which like a pendulum will keep swinging between the Agency and the subject on particular assertions and counter-assertions. It will at the onset of the case rest with the Agency, and then shift to the subject once the Agency has established a prima facie case. A prima facie case is one that requires an answer from the other party.’
13. The applicant has in my view been able to link the respondent to some questionable or suspicious business. The transactions seen in his mpesa and bank accounts point to a business which is tainted with obscurities and dealings in prohibited cannabis sativa. The respondent transacted with Amina Osman Kabunge who was one of the respondents in this court’s suit number E007 of 2024. Amina was also involved in trafficking narcotic substances and charged in JKIA law courts criminal case number E028 of 2021. I have confirmed that, in case number E007 of 2024, the court delivered its judgment on 14-09-2024 and forfeited Amina’s motor vehicle.
14. The respondent’s vehicle was impounded while transporting narcotics drugs which alone would make a case for forfeiture pursuant to Section 92(1) of POCAMLA which states that;

‘The High Court shall, subject to section 94, make an order applied for under section 90(1) if it finds on a balance of probabilities that the property concerned has been used or is intended for use in the commission of an offence.’
15. The respondent has argued that there is no conviction in the criminal case he is facing and therefore this court should not issue orders of forfeiture. Although the respondent has not been convicted in the criminal case in Isiolo, the outcome of that case would not affect the validity of the order of this court. The standard of proof in the two cases are different as whereas this case requires proof on a balance of probabilities, the criminal case will call for proof beyond any reasonable doubt. Again, the target in civil forfeiture is not the culpability of the respondent but the roots of the asset. The law goes for the property and not the owner thereof. In that case, even an acquittal in the criminal case would not



afford the respondent reprieve in this matter. In *Assets Recovery Agency v Ali Abdi Ibrahim* (2022) KEHC 1906 (KLR), it was held that;

‘It is also trite that in order for the court to make orders of forfeiture under Sections 90 & 91 of the *akn ke act 2009 9 Proceeds of Crime and Anti-Money Laundering Act*, the applicant need not establish the specific crime committed in relation to the property in issue. Contrary to the respondent’s assertion, the Agency does not have to prove the actual crime committed. All it is required to prove is that there was unlawful conduct. Once the Applicant establishes, on a balance of probabilities as provided in Section 92(1)(b) of the *akn ke act 2009 9 Proceeds of Crime and Anti-Money Laundering Act* that the assets in question are proceeds of crime, a duty is cast on the respondent to prove that he obtained the funds lawfully. The respondent is required to give a satisfactory explanation that he legitimately acquired the assets in question failing which the said assets shall be declared to have been illegally acquired.’

18. Having found that the applicant has established a prima facie case, I will proceed to analyse whether the respondent has discharged his burden of evidentiary proof. The respondent has attempted to disassociate the vehicle from the incident of 24-10-2024 when it was found transporting the drugs by alleging that he had hired it to one Ali Mohamed Hussein. He produced an agreement dated 15th October 2024 which was allegedly drawn by an advocate known as Caroline Rimita.
17. The applicant’s investigator has deponed that he traveled to Meru for investigations and found out that the said advocate is deceased and her secretary could not be traced. I must applaud the investigator for going out of the comfort of his office to carry out necessary inquiries. I have seen cases where investigators do not go out to verify the information, they receive from suspects leading to grey areas which leave the court in a dilemma or lose of a case the applicant should have won. The investigator in this matter did not leave anything to speculation.
18. Martin Sambururmo one of the investigators deponed that the secretary to the deceased advocate, one Evelyne Makena Muriuki who was working with Caroline Rimita Advocate had recorded a statement with the Director of Criminal Investigations to the effect that the agreement was drawn on 7th November 2024. The statement was produced as annexure MS-5 in the further affidavit sworn on 14-10-2024. Going by this statement, the agreement was drawn after the vehicle had been impounded.
19. Several reasons make me believe the applicant’s position that the agreement was drawn to sanitise the respondent’s actions. One of them is that the respondent did not have details or conduct, not even telephone number of the person who allegedly hired the vehicle. He did not take a copy of the person’s identity card or driving licence. I decline to accept that someone can entrust his motor vehicle with a stranger who he doesn’t take their details or conducts.
20. According to the respondent, on 26-10-2024, he was informed by a friend whose name he did not give that, his motor vehicle was found abandoned and was towed to the police station. He did not go out to find out what had happened even after the one-week period he had hired it out lapsed. The period was lapsing on 22-10-2024 and he received the call from the friend on 26-10-2024. He sat pretty until he was arrested on 9-11-2024. This is not a conduct consistent with an innocent owner of a valuable property like a vehicle which in fact he was using in his miraa business.
21. The respondent has claimed that he is in business of selling miraa but has not shown any evidence to that effect. All he told the court was that he buys and sells miraa between Meru, Moyale, Wajir and Marsbait without giving specifics. His allegations that his sisters do business in Nairobi has not



been substantiated. The applicant has exhibited a letter from the County Government of Nairobi City which says that the sisters not did not have a business licence.

22. In the circumstances discussed above, this court is not convinced that the respondent has other legitimate sources of income which funded the purchase of the motor vehicle. He has also not told the court where he got the Kshs 250,000.00 which he deposited in his new account opened on 24-11-2024.
23. The totality of all the respondent's conduct leads this court to conclude that the respondent is engaged in illegitimate business and in addition to the fact that the motor vehicle was used to commit an offence by conveying illicit drugs, this court is satisfied that the vehicle and the money in the account are proceeds of crime.
24. The upshot of what I have stated above is that I hold that the applicant has proved the case against the respondent on a balance of probabilities and I hereby proceed to issue the following orders;
 - a. Motor vehicle registration number KBQ 199X, chassis number NT30-133917 registered in the name of the respondent is declared proceed of crime.
 - b. Kshs 198,639.85 held in ABSA Bank account number 2052650545 Meru Branch in the name of respondent and all interest accrued therefrom is declared proceed of crime.
 - c. Kshs 198,639.85 held in ABSA Bank account number 2052650545 Meru Branch in the name of respondent and all interest accrued therefrom is hereby forfeited to the applic
 - d. The Director General National Transport and Safety Authority is ordered to transfer motor vehicle registration number KBQ 199X chassis number NT30-133917 to the applicant.
 - e. The Branch Manager of Absa Bank Meru branch is hereby ordered to transfer the forfeited funds to Criminal Assets Recovery Fund Account number 2140221339 domiciled at Kenya Commercial Bank KICC branch.
 - f. The respondent shall pay the costs of this suit.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF NOVEMBER 2025.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT.

Judgment delivered in presence of Miss Muchiri for the applicant and in absence of the respondent.

