



**Ravinine Swift Transporters Ltd v Kenya Union Commercial Food & Allied Workers Union
& 2 others (Cause E050 of 2021) [2025] KEELRC 3309 (KLR) (21 November 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3309 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E050 OF 2021
AN MWAURE, J
NOVEMBER 21, 2025
BEFORE HON. LADY JUSTICE ANNA NGIBUINI MWAURE**

BETWEEN

RAVININE SWIFT TRANSPORTERS LTD APPLICANT

AND

**KENYA UNION COMMERCIAL FOOD & ALLIED WORKERS
UNION 1ST RESPONDENT
MEERA UMOJA (K) LTD 2ND RESPONDENT
BEMAC AUCTIONEERS 3RD RESPONDENT**

RULING

1. The Objector Applicant filed a Notice of Motion dated 8th May 2025 under a Certificate of Urgency seeking the following orders that:
 1. Spent
 2. The firm of Bomet Kiprotich & Co. Advocates be granted leave to come on record for the Objector Applicant.
 3. Pending the hearing and determination of this application inter partes, this Honourable Court be pleased to issue a temporary injunction restraining the Claimant 1st Respondent, their agents, servants, assigns, or any person acting under their instructions, including the 3rd Respondent, from selling, transferring, disposing of, or in any manner interfering with motor vehicle registration number KDJ 086K.



4. The proclamation and intended sale of motor vehicle registration number KDJ 086K by the 3rd Respondent, scheduled for Tuesday, 13th May 2025 at 10:30 am, be stayed pending the hearing and determination of this application.
 5. This Honourable Court be pleased to lift the proclamation over motor vehicle registration number KDJ 086K and declare it free from any attachment arising from the proceeding between the Claimant and Respondent.
 6. The costs of this application be awarded to the Applicant.
2. The application is expressed to be brought under sections 1, 1A, 2A, 3, and 3A of the *akn ke act 1924 3 Civil Procedure Act*, Order 22 Rule 51 and Order 51 Rule 1 of the Civil Procedure Rules and all enabling provisions of the law.

Objector Applicant's supporting affidavit

3. The application is supported by the affidavit of Nikesh Rakesh Gudka, director of the Objector Applicant.
4. The Objector Applicant avers the ownership of motor vehicle KDJ 086K, which it purchased from the Claimant 1st Respondent via a sale agreement dated 5th February 2025.
5. The Objector Applicant avers that despite not being a party to the suit between the Claimant 1st Respondent and the 2nd Respondent, nor owing any debt to either, the motor vehicle was advertised for auction on 13th May 2025 by the 2nd Respondent under the Claimant 1st Respondent's instructions.
6. The Objector Applicant contends that this attachment is unlawful, as the motor vehicle is vital to its transport business, generating approximately Kshs. 50,000 = daily, and its sale would severely disrupt operations and harm employees.
7. The Objector Applicant avers that the intended auction is said to violate constitutional property rights and abuse court process, potentially causing irreparable harm, including loss of goodwill and reputation.
8. The Objector Applicant avers that it has a strong case backed by documentary evidence and seeks judicial protection from this injustice.

Claimant 1st Respondent's replying affidavit

9. The Claimant 1st Respondent opposed the application vide a replying affidavit sworn by its National Organizing Secretary, Mike O. Oranga, dated 20th May 2025.
10. The Claimant 1st Respondent avers that the 2nd Respondent failed to comply with court orders issued on 27th April 2023 and a conditional stay of execution granted on 27th April 2025, which prohibited the sale or transfer of motor vehicle KDJ 102K ZC 5789.
11. Despite these orders, the Claimant 1st Respondent avers that the 2nd Respondent sold the vehicle and issued post-dated cheques, with only the one for June 2024 matured and the rest bounced back.
12. The Claimant 1st Respondent avers that the 2nd Respondent has engaged in multiple applications to delay compliance and that the transfer of the vehicle to the Objector Applicant was done in bad faith to evade execution.



13. The Claimant 1st Respondent avers that searches conducted by the 3rd Respondent on 13th May 2025 revealed shared ownership and contact details between the 2nd Respondent and Objector Applicant, suggesting they are effectively the same entity.
14. The Claimant 1st Respondent avers that the Objector Applicant is using technicalities to obstruct recovery efforts and requests the court to compel the Respondent to deposit Kshs.1,504,590 =, including auctioneer costs, before releasing the vehicle, which was intended to satisfy decrees from Cause Nos. 50 of 2021, 55 of 2021, and 21 of 2020.

2nd Respondent replying affidavit

15. The 2nd Respondent also opposed the application vide a replying affidavit sworn by its director, Rakesh Chaganlal Mepa Gudka, dated 16th June 2025.
16. The 2nd Respondent avers that his identity is different from Rakesh Gudka and denies any affiliation with the Objector Applicant's company.
17. The 2nd Respondent avers by clarifying that the motor vehicle KDJ 086K is lawfully owned by Objector Applicant, not 2nd Respondent, or himself, as evidenced by a sale agreement and updated logbook.
18. The 2nd Respondent avers that it has made partial payments totalling Kshs.220,000 = toward the decretal sum and proposed a payment plan that remains unchallenged by the Claimant 1st Respondent.
19. The 2nd Respondent avers that the vehicle was previously financed through Bank of Baroda and legally transferred to the objector before any auctioneer action.
20. The 2nd Respondent avers that the proclamation by auctioneers is deemed invalid since the vehicle no longer belongs to the 2nd Respondent.
21. The 2nd Respondent avers that the Claimant 1st Respondent's attempt to attach the vehicle is portrayed as unjust and contrary to Article 40 of *akn ke act 2010 constitution the Constitution*.
22. The 2nd Respondent urges the court to set aside the proclamation and halt the sale to protect the rights of an innocent third party and allow lawful enforcement against the actual debtor's assets.

3rd Respondent's replying affidavit

23. The 3rd Respondent opposed the application vide a replying sworn by Joseph Mwangi King'ori, trading as Bemac Auctioneers, dated 16th June 2025.
24. The 3rd Respondent avers that on 9th July 2024, it received instructions from the Claimant 1st Respondent to execute warrants for Nakuru ELRC Cause Nos. 55 and 50 of 2021.
25. The 3rd Respondent avers that the court warrants were issued on 11th July 2024 to recover Kshs.310,998.28 and Kshs.481,342.61, and proclamation notices were served on 12th July 2024.
26. The 3rd Respondent avers that after no response, motor vehicle KDJ 102K was attached on 24th July 2024, but later sold in violation of court orders.
27. The 3rd Respondent avers that on 12th March 2025, further instructions were issued for Cause Nos. 21 of 2020, 55 of 2021, and 50 of 2021, totalling Kshs.1,154,011.27.
28. The 3rd Respondent avers that notices were served again, and a motor vehicle search on 18th March 2025 confirmed ownership by the Respondent.



29. On 27th April 2025, the 3rd Respondent avers that motor vehicle KDJ 086K was attached, and on 5th May 2025, its sale was advertised in the Standard newspaper.
30. Following a Notice of Motion filed on 8th May 2025 by the Objector Applicant to halt the sale, the 3rd Respondent avers that a company search dated 13th May 2025 revealed shared ownership details between the Respondent and Objector Applicant.
31. The 3rd Respondent avers that no other applications have been served beyond the one filed on 8th May 2025.

Objector Applicant's supplementary affidavit

32. The Objector Applicant filed a supplementary affidavit dated 26th May 2025 to rebut the Respondents' averments.
33. The Objector Applicant reiterates by refuting the Claimant's assertion that its director, Nikesh Rakesh Gudka, is the same person as Rakesh Chaganlal Mepa Gudka of the 2nd Respondent company, citing CR12 forms that confirm their distinct identities.
34. The Objector Applicant emphasizes that both companies are separate legal entities under the *akn ke act 2015 17 Companies Act*, and the transfer of motor vehicle KDJ 086K to it was a legitimate, bona fide transaction completed before any auction proceedings.
35. The Objector Applicant avers that it is an innocent third party with no liability for the Respondent's debts, and any attempt to attach its property violates constitutional protections and principles of fairness.
36. The Objector Applicant avers that the Claimant 1st Respondent's allegations are speculative and unsupported, and the Objector urges the court to lift the proclamation and halt the sale to prevent irreparable harm and uphold justice.
37. Parties canvassed the application by way of written submissions.

Objector Applicant's submissions

38. The Objector Applicant submitted that it indisputably owns motor vehicle registration number KDJ 086K, as there is a valid sale agreement dated 5th February 2025 with the 2nd Respondent and an NTSA log book issued on 28th March 2025 confirming registration in its name.
39. The Objector Applicant submitted that under section 8 of the *akn ke act 1953 39 Traffic Act*, Cap 403, and section 2 of the Traffic Offences Act, the registered owner is presumed to be the legal owner unless proven otherwise. The Objector Applicant cited Order 22 Rule 51 of the Civil Procedure Rules, which allows any person with a legal or equitable interest in attached property to object prior to sale.
40. The Objector Applicant relied on the case of Spinners and Spinners Limited V Kimilili Wholesalers Limited; Jayantilal Uniforms Kenya Limited (Objector) KEHC 12935(KLR) the court cited the case of Chatabhai M. Patel V Chaprebhi Patel [1958] EA 743 it was stated that:
 - a. Where an objection is made to the attachment of any property attached in execution of a decree on the ground that such property is not liable to attachment, the court shall proceed to investigate the objection with the like power as regards examination of the Objector, and in all other respects as if he was a party to the suit.



- b. The Objector shall adduce evidence to show that at the date of attachment, he had some interest in the property attached.
 - c. The question to be decided is, whether, on the date of attachment, the Judgment Debtor or the Objector was in possession, or where the court is satisfied that the property was in possession of the Objector, it must be found whether he held it on his own account or in trust for the Judgment Debtor. The sole question to be investigated is, thus, one of possession of, and some interest in, the property.
 - d. Questions of legal rights and title are not relevant except so far as they may affect the decision as to whether the possession is on account of or in trust for the Judgment Debtor or some other person. To that extent, the title may be part of the inquiry.
41. Still, in *Spinners and Spinners Limited V Kimilili Wholesalers Limited; Jayantilal Uniforms Kenya Limited (Objector) KEHC 12935(KLR)*, the court also cited the case of *Dubai Bank Kenya Ltd V Come-Cons Africa Ltd & Another [2012] KEHC 4233 (KLR) Odunga J* stated as follows:
- “Although the law is that in the objection proceedings, the court does not and cannot make a finding as to the ownership of the property the subject of the objection proceedings but simply decide whether or not the objector has interest legal or equitable in the attached property, it is equally true that the onus of proof in objection proceedings is on the objector to establish ownership see *Chatabhai M. Patel & another HCCC No. 544 of 1957(Lewis) on 8 12 58 HCU (1958) 743.*” Emphasis added.
42. The Objector Applicant submitted that it was in possession of the vehicle, using it for business, and held it on its own account. The Objector Applicant argued that Claimant 1st Respondent's reliance on outdated ownership records and allegations of fraud are unfounded. The Objector Applicant also submitted that the proclamation violates constitutional and equitable protections, and urged the court to lift it and stay the auction to prevent irreparable harm.

Claimant 1st Respondent's submissions

43. The Claimant 1st Respondent submitted that the Objector Applicant and the 2nd Respondent, are essentially the same entity, evidenced by their shared postal address and telephone number, with the only distinction being familiar one is registered under the father and the other under the son.
44. The Claimant 1st Respondent argued that the change of ownership of motor vehicle KDJ 086K occurred suspiciously soon after its impoundment on 18th March 2025, suggesting an attempt to evade execution. The Claimant 1st Respondent urged the court to treat these similarities as material in determining true ownership and to compel the 2nd Respondent to deposit the decretal amount before the vehicle's release.
45. The Claimant 1st Respondent submitted that the Objector Applicant's reliance on legal technicalities and unrelated case law, without addressing the shared contact details, confirms the entities' unity and justifies dismissal of the objection with costs.
46. At the time of writing this ruling, the 2nd and 3rd Respondents did not file their written submissions.



Analysis and determination

47. The court has considered the application together with the respective replying affidavits by the parties and submissions; the issue for determination is whether the application is meritorious and should it be granted.

48. The application dated 8th May 2025 filed by the Objector seeks to lift the proclamation of motor vehicle registration number KDJ 086K. The objector contends the said motor vehicle is its lawful property having been acquired through a legitimate sale from the 2nd Respondent Meera Umoja K. Ltd by a Sale Agreement dated 5th February 2025.

49. The Objector therefore says the decree against the 2nd Respondent is therefore unlawful and the Objector is not a party to the suit.

The objector did produce a copy of the log-book which the Objector claims was registered by National Transport and Safety Authority (NTSA) on 28th March 2025.

50. The Claimant on the other hand claims the Objector and the 2nd Respondent Meera Umoja K(Ltd) are one and the same entities.

The search certificate availed in count of Meera Umoja Kenya Limited indicate the Director Shareholder is RAKESH CHAGANLAL MEPA GUDKA of P.O. Box 15776 Nakuru and Telephone No. 0720 -638578.

The Director of RAVININE SWIFT TRANSPORTERS LTD NAKESH RAKESH GUDKA address 15776 Nakuru and same telephone numbers.

51. The court has no way of knowing the relationship between the two companies but even family members do own different companies. It would be speculative to say the two companies are one and the same unless there is very clear and undisputed evidence to show the companies are one and the same. In this case, the court cannot state with certainty the two companies are one and the same. It would be worse injustice to dispose assets of a person who is not a party to the suit.

52. The fact that there is a log-book of the said motor vehicle in the name of the Objector emboldens the court to hesitate to allow the sale of the said motor vehicle to satisfy the debt owed to the Claimant.

Section 8 of the *Kenya Traffic Act 1953* provide as follows: -

“A person in whose name a vehicle is registered shall unless the contrary is proved be deemed to be the owner of the vehicle.”

53. In the case of Spinners & Spinners Limited -Vs- Kimilili Wholesalers Limited, Jayantilal Uniforms Kenya Limited (Objector) Supra the court citing the case of Dubai Bank Kenya Limited -Vs- Come Cons Africa Ltd & Another (Supra) the court stated: -

“Although the law is that in the objection proceedings, the court does not and cannot make a finding as to the ownership of the property the subject of the objection proceedings but simply decide whether or not the objector has interest legal or equitable in the attached property, it is equally true that the onus of proof in objection proceedings is on the objector to establish ownership see Chatabhai M. Patel & another HCCC No. 544 of 1957(Lewis) on 8 12 58 HCU (1958) 743.” Emphasis added.



54. The allegation that the Objector and the 2nd Respondents are one and the same has not been supported factually. The Objector is emphatic they own the vehicle and they use it in their business.
55. In that case, the court finds it would be unjust and unconstitutional to illegally attach private property of an innocent party on allegation that the same belongs to the judgment debtor with no concrete supporting evidence. The court therefore lifts the proclamation of the said motor vehicle and stay the intended auction of that particular motor-vehicle.
56. Having said so, the 2nd Respondent's behaviour of failing to settle the debt legally owed to the Claimant for years is unacceptable. Even though that is not a prayer in this application however, this court being a court that is just and equitable and meets justice without undue technicalities will order the 2nd Respondent to give firm proposal on how they intend to settle the decretal sum. They are given 14 days to give that proposal and it will be recorded and supervised by this court. Case to be mentioned on 2nd December 2025 for progress report.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 21ST DAY OF NOVEMBER, 2025.

ANNA NGIBUINI MWAURE

JUDGE

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of *akn ke act 2010 constitution the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *akn ke act 2010 constitution the Constitution* and the provisions of Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

