

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL DIVISION

MISCELLANEOUS CIVIL APPLICATION NO. E1360 OF 2025

DAVID MUNGAI WAMAE.....
.....APPLICANT

=VERSUS=

NATIONAL TRANSPORT AND SAFETY AUTHORITY..... 1ST
RESPONDENT

THE ATTORNEY GENERAL..... 2ND
RESPONDENT

RULING

1. This is an Application to compel the 1st Respondent the National Transport and Safety Authority (NTSA), to remove a caveat that was placed on Motor Vehicle Registration No. KCG 810A
2. The caveat was pursuant to a court order issued in execution of Warrants of Attachment by the Naivasha Small Claims Court in **NAIVASHA SCCC NO. E622 OF 2025**. The Application has stated that it has been brought pursuant to Order 40 Rule 1 of the Civil Procedure Rules. The same, which is by a Notice of Motion dated 22nd September 2025, is supported by the Supporting Affidavit of the Applicant, and is based on the grounds stated on it.
3. Order 40 Rule 1 of the Civil Procedure Rules operates where the Application is filed in a suit, as an interlocutory Application, seeking interlocutory reliefs to be issued, pending the hearing of the suit. It cannot be filed in an

already concluded suit, in relation to an already concluded suit, or as a stand-alone pleading where there is no pending suit. Neither can it be filed as a stand-alone pleading instituting proceedings.

4. Yet this is what the Applicant has done by commencing proceedings by this Application, filed as a miscellaneous Application. This is a fatal error that makes this Application fatally defective.

5. For that reason, this Application fails, and it is hereby dismissed without costs.

DATED and DELIVERED at NAIROBI on this 4th day of December 2025

**PROF (DR) NIXON SIFUNA
JUDGE**