



**Gitonga v Fep Sacco Limited; Fountain Global Investors Limited (Objector)  
(Cause E004 of 2022) [2025] KEELRC 3506 (KLR) (2 December 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3506 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MERU  
CAUSE E004 OF 2022  
L NDOLO, J  
DECEMBER 2, 2025**

**BETWEEN**

**STEVE COLLINS GITONGA ..... CLAIMANT**

**AND**

**FEP SACCO LIMITED ..... RESPONDENT**

**AND**

**FOUNTAIN GLOBAL INVESTORS LIMITED ..... OBJECTOR**

**RULING**

1. This ruling determines the Objector’s Notice of Motion dated 24<sup>th</sup> October 2025, seeking a declaration that the execution proceedings to enforce the judgment and decree herein are a nullity.
2. The Objector pursues a further order to cancel, set aside, recall and lift the Warrants of Attachment and Sale dated 26<sup>th</sup> September 2025.
3. The Motion is supported by an affidavit sworn by Onesums Muia and is premised on the following grounds:
  - a. That on 22<sup>nd</sup> October 2025, the Claimant caused a proclamation to be effected against the assets of the Objector in a bid to execute the Warrants of Attachment issued by the Court;
  - b. That the Objector faces unfair execution proceedings based on an unjust attachment;
  - c. That the Objector is apprehensive that it shall be grossly prejudiced should the execution be allowed to proceed and attachment of moveable property takes place as presently intended;
  - d. That the Objector is not a party to the suit before the Court and is therefore not liable to make good any decree issued by the Court;



- e. That the Claimant's illegal attachment is unwarranted and unjustified as there is no nexus between the Objector and the Respondent and the actions undertaken by the Claimant are null and void;
  - f. That the Objector stands to suffer significant loss if the execution is allowed against its assets;
  - g. That unless the Court intervenes, the Auctioneers will cart away the Objector's goods occasioning irreparable loss;
  - h. That the actions of the Claimant have caused the Objector to incur legal fees to the tune of Kshs. 100,000 for which it should be fully compensated;
  - i. That the application has been brought without inordinate delay;
  - j. That the Claimant will not be prejudiced should the application be allowed and the record set straight;
  - k. That the Objector therefore asks that the orders sought be granted.
4. The Claimant opposes the application by his replying affidavit sworn on 29<sup>th</sup> October 2025. He terms the application as bad in law, pointing out that the deponent to the supporting affidavit has not filed an authority to act for the Objector.
  5. The Claimant depones that the Objector is not a duly incorporated company under the *Companies Act* and is in violation of the law by using the word 'Limited' in its citation.
  6. The Claimant further depones that a search at the Companies Registry revealed a company by the name 'Fountain Global Investors PLC Limited' of Company No. CPU/2013/117936 with its registered office at Eastern By-Pass Road, Culley Ventures/2/14350 Building, as evidenced by Company Search, CR 12 dated 29<sup>th</sup> October 2025.
  7. The Claimant states that if the Objector is 'Fountain Global Investors PLC Limited' of Company No. CPU/2013/117936 it is well known to the Respondent, as a subsidiary under which the Respondent holds 6,000,000 ordinary shares out of the total issued ordinary shares being 6,000,080.
  8. The Claimant asserts that the Objector has failed to demonstrate interest, legal or equitable, in the attached goods, by failing to annex any document as proof of purchase or registration of the goods or absolute or leasehold interest in the premises housing the attached goods.
  9. According to the Claimant, when the Warrants of Attachment and the Proclamation were served, the Respondent's representative signed and stamped them with the Respondent's stamp.
  10. The Claimant accuses the Objector of lying to the Court and asks that the deponent to the replying affidavit be summoned for cross examination.
  11. The relevant provision covering the Objector's application is Order 22 Rule 51 of the Civil Procedure Rules, which provides as follows:
    51.
      - (1) Any person claiming to be entitled to or to have a legal or equitable interest in the whole of or part of any property attached in execution of a decree may at any time prior to payment out of the proceeds of sale of such property give notice in writing to the court and to all the parties and to the decree-holder of his objection to the attachment of such property.



- (2) Such notice shall be accompanied by an application supported by an affidavit and shall set out in brief the nature of the claim which such objector or person makes to the whole or portion of the property attached.
  - (3) Such notice of objection and application shall be served within seven days from the date of filing on all parties.
12. It is well established in law that in objection proceedings, the Objector bears the burden of proving legal or equitable interest in the attached property. In *Precast Portal Structures v Kenya Pencil Company Limited & 2 others* [1993] eKLR it was held that:

“The burden is on the objector to prove and establish his right to have the attached property released from the attachment. On the evidential material before the Court, a release from attachment may be made if the Court is satisfied; that the property was not, when attached, held by the judgment-debtor for himself, or by some other person in trust for the judgment-debtor; or that the objector holds that property on his own account. But where the Court is satisfied that the property was, at the time of attachment, held by the judgment-debtor as his own and not on account of any other person, or that it was held by some other person in trust for the judgment-debtor, or that ownership has changed whereby the judgment-debtor has been divested of the property in order to evade execution or the change is tainted with fraud, the Court shall dismiss the Objection. The Court takes into account the grounds of objections raised, and the contentions of the respective parties to the objection proceedings. Any special features evident in the proceedings which throw light on the controversy must be regarded.”
13. In *Yasmin Mohammed Ali v RBS Limited; Bhupesh Lakhani & another (Objectors)* [2019] eKLR the Objectors’ plea was rejected on account of want of proof of legal or equitable interest in the proclaimed goods.
14. In *Stephen Kiprotich Koech v Edwin Barchilei; Joel Sitienei (Objector)* [2019] eKLR it was held that at the core of objection proceedings is evidence adduced by the Objector demonstrating the existence of legal or equitable interest in the attached property.
15. Rather than discharge its burden of proof of interest in the attached goods, the Objector concentrated on asserting its distinction from the Judgment Debtor. The photographs of the premises where proclamation is said to have been levied and the suggestion that there could have been two different proclamation notices served did nothing to aid the Objector’s case.
16. The Court further observed that the deponent to the affidavit in support of the objection, who describes himself as the Objector’s Finance Lead, did not disclose his source of authority to plead on behalf of the Objector.
17. On the whole, I find and determine that the Objector did not present any evidence of either legal or equitable interest in the attached goods.
18. The result is that the application dated 24<sup>th</sup> October 2025 is dismissed with costs to the Claimant.
19. The interim orders granted on 29<sup>th</sup> October 2025 are vacated.
20. Orders accordingly.

**DELIVERED VIRTUALLY THIS 2<sup>ND</sup> DAY DECEMBER 2025**

**LINNET NDOLO**



## **JUDGE**

Appearance:

Mr. Kiamba for the Claimant

Mr. Michuki for the Objector

