

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI**

**MISCELLANEOUS CAUSE NO. E236 OF 2024
IN THE MATTER OF THE ADVOCATES ACT, CAP
16, LAWS OF KENYA**

**AND
IN THE MATTER OF THE TAXATION OF COSTS
BETWEEN ADVOCATE AND
CLIENT**

**IN THE MATTER OF NAIROBI MAGISTRATES ELRC
CAUSE NO. 165 OF 2009**

**V. CHOKAA & CO., ADVOCATES
APPLICANT**

**ROY HAULIERS
RESPONDENT**

**AND
BANK OF AFRICA KENYA LTD
PARTY**

INTERESTED



DIRECTIONS/RULING NO. 5

1. For determination is a Motion dated 17 November 2025 by Roy Hauliers (the Respondent) seeking orders:

- (i) ...
- (ii) THAT the Honourable Court be pleased to grant stay of execution and an order of mandatory injunction

directed at Taifa Auctioneers compelling the immediate and unconditional release of motor vehicles registration numbers KBS 853V (MAN Prime Mover) and ZC 8079 (Fruehauf Trailer) presently in their illegal possession pending hearing and determination of this application inter-partes.

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(iii) THAT this Honourable Court be pleased to grant a stay of execution and an order of mandatory injunction directed at Taifa Auctioneers

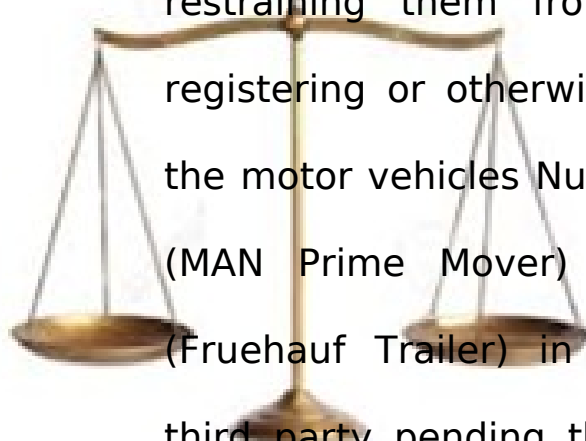
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unconditional release to the applicant and/or Interested Party of motor vehicles registration numbers KBS 853V (MAN Prime Mover) and ZC 8079 (Fruehauf Trailer) presently in their illegal possession pending

hearing and determination and determination of this application.

(iv) THAT the Honourable Court be pleased to grant stay of execution and an injunction against the

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Respondent, their agents, servants or assigns including Taifa Auctioneers be restraining them from transferring, registering or otherwise dealing with the motor vehicles Number KBS 853V (MAN Prime Mover) and ZC 8079 (Fruehauf Trailer) in favour of any third party pending the hearing and determination of this application inter-

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(v) THAT the Honourable Court be pleased to grant stay and an injunction against the Respondent, their agents, servants or assigns including Taifa Auctioneers be

restraining them from transferring, registering or otherwise dealing with the motor vehicles Number KBS 853V (MAN Prime Mover) and ZC 8079 (Fruehauf Trailer) in favour of any third party pending the hearing and determination of this application.

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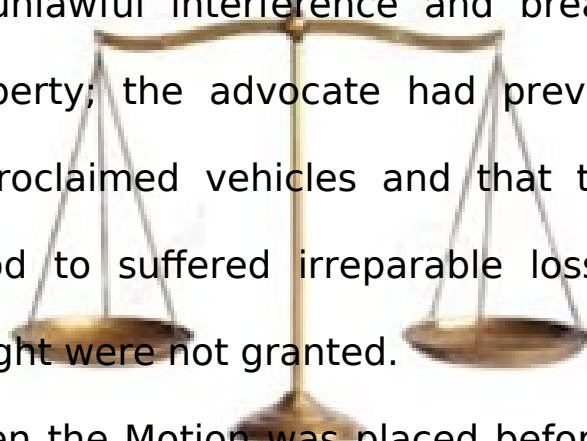
(vi) THAT the Honourable Court be pleased to declare the seizure of the said motor vehicles as illegal and void ab initio and order Taifa Auctioneers to cease any further actions against them.

(vii) THAT such further or other relief as this Honourable Court may deem fit and just to grant in the circumstances.

(viii) THAT costs of this application be provided for.

2. The grounds in support of the Motion were that motor vehicle registration number KBS 853V (MAN Prime Mover) and ZC 8079 (Fruehauf Trailer) were registered in the joint names of the Respondent and Bank of Africa Kenya Ltd; the vehicles had not been proclamed before attachment; the attachment constituted a trespass and amounted to unlawful interference and breach of right to property; the advocate had previously attached unproclamed vehicles and that the Respondent stood to suffer irreparable loss if the orders sought were not granted.

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3. When the Motion was placed before the Court *ex parte* on 18 November 2025, it directed the Respondent to serve. The Court also interdicted the transfer or any further dealings with the vehicles.

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4. When the parties appeared in Court on 20 November 2025, and after making brief submissions and being satisfied that the Bank of

Africa Kenya Ltd was registered as co-owner of the vehicles, the Court directed the unconditional and immediate release.

5. The Court further directed the advocate and the Bank of Africa Kenya Ltd to file responses ahead of further directions today.

6. The advocate filed a replying affidavit on 21 November 2025, wherein he deponed that the vehicles had been proclaimed on 26 July 2025; an advertisement had been published on 29 September 2025 by the auctioneer to sell the vehicles; the trailer ZC 8079 had been sold; that there was a balance of Kshs 1,991,494/- out of the decretal sum of Kshs 2,287,511/- to be settled and that the auctioneers had been instructed to comply with the order to release the vehicles.

7. The Head of Recoveries with the Bank of Africa Kenya Ltd filed a replying affidavit on 27 November 2025. In the affidavit, the deponent stated that motor vehicle KBS 853V was co-

registered in the Bank's name and that the Bank was never notified of the proclamation.

8. The Court has considered all the material placed before it.

9. The Court directed that the 2 motor vehicles be released unconditionally and immediately on 20 November 2025.

10. There is *prima facie* evidence on record that vehicle registration KBS 853V (MAN Prime Mover) is co-owned by the Respondent and Bank of Africa Kenya Ltd.

11. Upon proclamation of the vehicle or before, it was incumbent upon the advocate and the auctioneer to ascertain from official records the ownership of the vehicle before carrying it away. It is apparent that the advocate and auctioneer failed to conduct due diligence on the ownership of the vehicle.

12. The Respondent asserted that vehicle registration ZC 8079 was co-owned with the Bank of Africa Kenya Ltd, but the official records it presented

before the Court indicate that the trailer was co-registered in its name and that of Gaudian Bank Ltd as of 28 January 2008.

13. The copy of a search provided by the Respondent showed that the Respondent was the single owner of the trailer as of 26 September 2025. Without explanation, the Bank of Africa Kenya also wrote a To Whom It May Concern dated 26 September 2025, asserting co-ownership of the trailer.

14. The copy of the search produced by the Respondent, in the Court's view, is *prima facie* evidence that the trailer is not co-owned and was available for attachment.

15. However, the Court records indicate that the advocate applied to the Court on or around 24 March 2025 to execute the decree by attachment of the Respondent's movable properties and warrants were issued to Mbeki Auctioneers. The

auctioneers attached the Respondent's movable properties, but the decree was not satisfied.

16. The advocate then moved the Court to allow execution through garnishee proceedings through Motions dated 16 June 2025 and 17 June 2025. The named garnishees in the Motions were Bank of Africa, BMCE Group and Prime Bank.

17. The Motions are yet to be fully determined.

18. Nevertheless, the advocate caused a proclamation and attachment to be conducted in July 2025.

19. The question begging is whether a party has the liberty to run parallel or simultaneous execution processes.

20. The High Court in *Bhupendra Somabhai Patel v Kingsway Tyres Limited & Ar Diamond Trust Bank Limited her;(Garnishee)* [2020] KEHC 476 (KLR) stated:

It would thus be understandable that the process of execution would have to be undertaken through more than one

procedure. Nonetheless, with respect to any one aspect of the decree, the Decree-Holder ought not to undertake simultaneous parallel processes of execution.

21. A party is not precluded from using any of the execution methods. At the same time, a party should not utilise different methods of execution before an affirmation by the Courts that the initial method has not been successful.

22. Using different execution methods can cause an untidy and confusing legal maze. The execution in the instant case is fast hurtling towards creating such untidiness and confusion.

23. This Court has so far delivered around 4 Rulings implicating the execution process.

24. It was with this realisation that the Court directed the release of the 2 motor vehicles.

25. The advocate is better advised to pursue one logical method of execution before commencing on other methods of execution. Otherwise, it is the

Court that will be left with egg on its face with the attendant risk of loss of confidence in the administration of justice.

Orders

26. Consequently, the advocate is directed to allow the Court an opportunity to determine the pending garnishee proceedings before invoking other execution methods.

Delivered virtually, dated and signed in Nairobi on this 11th day of December 2025.



**Radido Stephen, MCI Arb
Judge**

Appearances

For applicant

V. Chokaa & Co.
Advocates

For Respondent

Waruiru, Karuku &
Mwangale Advocates

For Bank of Africa

Mulanya & Maondo
Advocates

Court Assistant

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