



**Asset Recovery Agency v Cullinan Private Jets Corp Limited & another; Cullinan Private Jets Corp Limited & another (Interested Parties) (Anti-Corruption and Economic Crimes Civil Suit E039 of 2023) [2025] KEHC 18995 (KLR) (Anti-Corruption and Economic Crimes) (18 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18995 (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 E039 OF 2023  
BM MUSYOKI, J  
DECEMBER 18, 2025**

**BETWEEN**

**ASSET RECOVERY AGENCY ..... APPLICANT**

**AND**

**CULLINAN PRIVATE JETS CORP LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**GLO JETS INTERNATIONAL LIMITED ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**CULLINAN PRIVATE JETS CORP LIMITED ..... INTERESTED PARTY**

**MAZUMA HOLDINGS LLC ..... INTERESTED PARTY**

**RULING**

1. By a notice of notice of motion dated 25<sup>th</sup> June 2025, the 2<sup>nd</sup> interested party has prayed as follows;
  1. This Honourable Court be pleased to recognize the applicant’s proprietary interest in the following funds forfeited to the state pursuant to the judgment of 18<sup>th</sup> December 2023 and Gazette Notice no. 3384 dated 14<sup>th</sup> March 2025;
    - i. USD 54,257,85 held in account no. 01XXXXXXXXXX50 in the name of Cullinan Private Jets Corp at I & M.
    - ii. KES 696,070.70 held in account no. 01XXXXXXXXXX50 in the name of Culinan Private Jets Corp at I & M Bank;



- iii. USD 24,712.61 held in account no. 6XXXXXXXXXX2 in the name of Glo Jet International Limited at Ecobank Kenya;
  - iv. KES 1,134,691.33 held in account no. 6XXXXXXXXXX1 in the name of Glo Jet International Limited at Ecobank Kenya.
2. An order be issued directing the immediate release and payment of the said funds to the applicant through his advocates' account:
- Account name: Alex And Amersi Llp  
Account number (KES): 00XXXXXXXXXX137  
Account number (USD): 0XXXXXXXXXX38  
Brach: Westlands Branch- Woodvale Grove  
Branch code: 001  
Swift Code: ABCLKENA  
Branch Code: 010  
Bank Code: 35.
3. The costs of this application be awarded to the 2<sup>nd</sup> interested party/applicant.
2. The facts in support of the application are deponed in the supporting affidavit of Rondell Maurice Fletcher dated 25<sup>th</sup> June 2025. He avers that the funds which were forfeited following judgment of this court dated 11-12-2024 were a product of a fraudulent transaction where he was defrauded a total of USD 450,000 by the respondents. He adds that the investigations leading to the filing of this matter were as a result of his complaint to the Directorate of Criminal Investigations following the aforesaid fraud.
3. The deponent has gone on to explain how he was defrauded through his company which is the 2<sup>nd</sup> interested party herein. The fraudulent scheme involved sale of precious stones which he intended to buy from Kenya. He paid the amounts to the respondents but the stones were not consigned to him or his company. He adds that it was his complaint that led the applicant to open an inquiry file culminating to this suit and eventually the judgment. The 2<sup>nd</sup> interested party now wants to be given the money as the victim of the crime.
4. In opposition to the application, the applicant's' investigator Mr. Alfred Musalia has stated that the 2<sup>nd</sup> interested party came too late since the court has already delivered its judgement and there is no pending suit where the 2<sup>nd</sup> interested party's application can be canvassed. He adds that the applicant never received any notice from the 2<sup>nd</sup> interested party under Section 83(3), (4) and (5) of *Proceeds of Crime and Anti-Money Laundering Act* (hereinafter referred to as 'POCAML A) despite it having gazetted perseveration orders issued in this court's miscellaneous application number E034 of 2023.
5. It is stated further that the 2<sup>nd</sup> interested party was aware of the preservation orders but did not file any application to be allowed to participate in the proceedings despite Rondell Maurice Fletcher having recorded statement with the applicant during its investigations. The applicant states further that after the judgement, the respondent lodged an appeal at the Court of Appeal vide civil appeal number E073 of 2025 which is pending before the said court.
6. The respondent did not participate in the prosecution of the application. The application was disposed of by way of written submissions. I believe that there is a typographical error in prayer 1 as it talks of a



judgment dated 18<sup>th</sup> December 2023, yet the judgement in this matter was delivered on 11-12-2024. I have read the notice of motion, supporting affidavit, the applicant's replying affidavit, the submissions of the 2<sup>nd</sup> interested party dated 10<sup>th</sup> September 2025 and those of the applicant dated 4<sup>th</sup> November 2025. I have also considered the authorities cited by the parties.

7. Section 83(3) of POCAMLA provides as follows;

A person who has an interest in the property which is subject to a preservation order may give notice of his intention to oppose the making of a forfeiture order, or to apply for an order excluding his interest in the property concerned from the operation thereof.

8. The above is an acknowledgement by the law that a situation like the one in the current application may arise. There are instances where the victims of the predicate offence would be identifiable or where an innocent party who knows nothing about the predicate offence or has no connection with the respondent would have a stake in the property sought to be forfeited. In such circumstances, the law allows such persons to come forward and demonstrate their interest. That is the purport of section 93 of POCAMLA which provides that;

Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the High Court, before the forfeiture order is made and the court, if satisfied on a balance of probabilities-

- a. that the person was not in any way involved in the commission of the offence; and
- b. where the person acquired the interest during or after the commission of the offence, that he acquired the interest-
  - i. for sufficient consideration; and
  - ii. without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time he acquired it, tainted property,

9. The court shall make an order declaring the nature, extent and value (at the time the order was made) of the person's interest.

10. Section 93(2) of the same Act however does not allow a person who had the knowledge of the forfeiture application before the forfeiture order was made to make an application after the forfeiture order without the leave of the court. It provides that;

A person who-

- a. had knowledge of the application for the forfeiture order before the order was made; or
- b. appeared at the hearing of that application, shall not be permitted to make an application under subsection (2), except with leave of the court.

11. In my opinion by making the leave of the court a prerequisite under the above Section, the law seeks to prevent situations like the current one where one would wait and watch from the sidelines as the forfeiture application is prosecuted only to come and seek to take the court back to determining issues it would have determined in its judgment.

12. It has been deponed by the applicant that the 2<sup>nd</sup> interested party knew of the forfeiture application as it had recorded statement with the applicant. I believe that is the position since the 2<sup>nd</sup> interested party has confirmed in its supporting affidavit that it had reported the fraud to the DCI which report was taken up by the applicant. In that regard, I find that the 2<sup>nd</sup> interested party having failed to give



notice under Section 83(3) of the POCAMLA or to make an application to appear and participate in the proceedings under Section 93, it lost its right to claim the proceeds or forfeited funds, unless with the leave of the court which has not been sought in this application.

13. Even if I were wrong in my above finding, it would still be unwise to grant the application because there is an appeal pending before the Court of Appeal against the judgement of this court. Section 97 of POCAMLA provides as follows;

Any preservation order and any order authorizing the seizure of the property concerned or other ancillary order which is in force at the time of any decision regarding the making of a forfeiture order under section 92(1) shall remain in force pending the outcome of any appeal against the decision concerned.

14. Pursuant to the above Section, the funds ordered forfeited to the state remains preserved until the appeal is heard and determined. Granting the application would be circumventing the provision of this Section which this court is not ready to do.
15. Further, the hierarchy of our courts demands that the courts in lower ranking should avoid issuing orders which may contradict or deal with issues pending before a higher court. The issue of merits of orders for forfeiture is pending before the Court of Appeal and in the circumstances, I have no jurisdiction to delve into any issue touching on the validity or merits of the judgement dated 11<sup>th</sup> December 2024.
16. In view of what I have discussed above, the application dated 25<sup>th</sup> June 2025 is dismissed with no orders as to costs.

**DATED SIGNED AND DELIVERED AT NAIROBI THIS 18<sup>TH</sup> DAY OF DECEMBER 2025.**

**B.M. MUSYOKI**

**JUDGE OF THE HIGH COURT.**

Ruling delivered in presence of Mr. Ochieng for the 2<sup>nd</sup> interested party and in absence of the applicant, the respondent and the 1<sup>st</sup> interested party.

