



REPUBLIC OF KENYA



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Leap Investments Limited & another v Manyonje; Gavana (Objector) (Environment and Land Miscellaneous Application 1 of 2021) [2026] KEELC 266 (KLR) (27 January 2026) (Ruling)

Neutral citation: [2026] KEELC 266 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION 1 OF 2021
NA MATHEKA, J
JANUARY 27, 2026

BETWEEN

LEAP INVESTMENTS LIMITED 1ST APPLICANT

ELAKANA MUGODO MWISELI 2ND APPLICANT

AND

GREGORY MULIRO MANYONJE RESPONDENT

AND

ELIZABETH NALIAKA GAVANA OBJECTOR

RULING

1. The application is dated 19th September 2025 and is brought under Order 22 Rules 51, 52 and 53 of the Civil Procedure Rules, and Sections 1A, 1B & 3A of the [Civil Procedure Act](#) seeking the following orders;
 1. That there be a stay of execution of the Warrants of Attachment and Sale dated 8th September, 2025 issued against the Objector's household goods pending hearing and determination of this application.
 2. That the proclamation dated 11th April, 2025 and the subsequent warrants of attachment and sale dated 8th September, 2025 in respect of the Objector's household goods namely sofa set, television set, gas cylinder, coffee table, TV stand, refrigerator, water dispenser, microwave, wall hangings, floor mat and music system be lifted and/or set aside.
 3. That the Objector, Elizabeth Naliaka Gavana, has an equitable interest in the household items listed for attachment, and the same do not belong to the Judgment Debtor; hence their attachment and sale would be unjust and unlawful.



4. That the said attached goods be released forthwith to the Objector.
5. That costs of this application be provided for.
2. It is supported by the grounds the annexed Affidavit of Elizabeth Naliaka Gavana and grounds that the Objector is the wife of the Judgment Debtor but is the exclusive owner of the proclaimed household items. The Objector is not a party to this suit, nor is she indebted to the Decree Holder in any way. The proclamation dated 11th April, 2025 and Warrants of Attachment and Sale dated 8th September, 2025 were wrongly directed at the Objector's property. The intended attachment and sale would occasion the Objector irreparable loss and great injustice as her property is distinct and separate from that of the Judgment Debtor. The law places the burden on the Objector to demonstrate legal or equitable ownership, which she is able to prove through receipts and other documentary evidence. It is in the interest of justice that the proclamation and warrants be lifted as against the Objector's property.
3. This court has considered the application and the submissions therein. The law is clear; under Order 22 rule 51(1) of the Civil Procedure Rules:

Any person claiming to be entitled to or to have a legal or equitable interest in the whole 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 parties to the decree-holder, of his objection to the attachment of such property.
4. The Objector bears the burden of proving that she is entitled to or has legal or equitable interest on the whole or part of the attached property. The key words are; entitled to or to have a legal or equitable interest in the whole or part of the property. The Objector submitted that his properties were proclaimed by the auctioneers to satisfy the decree of the court for Ksh.8,815,595 and being aggrieved, the objector filed these proceedings. The proclamation was not warranted as the Objector has legal and equitable interests in the whole and all the properties attached. The Objector was not a party to the proceedings and her property should not be used to satisfy the decree herein. The Objector is the wife of the Judgment Debtor but is the exclusive owner of the proclaimed household items. The Objector is not a party to this suit, nor is she indebted to the Decree Holder in any way. The proclamation dated 12th September 2025 and Warrants of Attachment and Sale dated 8th September, 2025 were wrongly directed at the Objector's property.
5. The Respondent submitted that the motion by the Objector has failed to meet the provisions of Order 22 of the Civil Procedure Rules.that the Objector is legally married to the Judgement Debtor and has not availed any evidence to prove that the property belongs to her. That this is an orchestrated ploy to once more frustrate the Decree Holder's effort to recover his lawfully entitled fruits of the judgment.
6. The core of objection proceedings is that, the Objector must adduce evidence to show that at the date of the attachment there was a legal or equitable interest in the property(s) attached. For this purpose, she may raise an objection on the ground, inter alia, that he has some beneficial interest in the property. A beneficial interest is as much an interest within the meaning of the Rules as a legal interest in the property attached. So, a mortgagor can bring an objection on the ground that his interest in the property, viz, the equity of redemption cannot be attached and sold in execution of a decree against the mortgagee. See Precast Portal Structures versus Kenya Pencil Company Ltd & 2 others (1993) eKLR;
7. 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.



- (1) 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
 - (2) that the objector holds that property on his own account.”
8. The Objector’s case is that the auctioneers under the instructions of the claimant as the decree holder visited her matrimonial house and proclaimed his properties namely sofa set, television set, gas cylinder, coffee table, TV stand, refrigerator, water dispenser, microwave, wall hangings, floor mat and music system. That the other household items proclaimed belong to her and under use in her matrimonial home. The Objector attached the copies of the proclamation, warrants of attachment and warrants for sale. There is nothing more.
9. The rationale should be traced under Order 22 rule 51(1) of the Civil Procedure Rules which provides as follows;
- Any person claiming to be entitled to or to have a legal or equitable interest in the whole 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 parties to the decree-holder, of his objection to the attachment of such property.
10. Has the Objector established a legal or equitable interest in the whole or part of any property attached in execution of the decree herein?
11. In the case of Arun C. Sharma vs Ashana Raikundalia T/A A. Raikundalia & Co. Advocates & 4 others (2014) eKLR where the court held as follows;
- The objector bears the burden of proving that he is entitled to or has legal or equitable interest on the whole or part of the attached property. The key words are; entitled to or to have a legal or equitable interest in the whole or part of the property. H as the objector proved it is entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree?”
12. I find that the Objector has not demonstrated any exclusive direct, indirect or remote relation with the attached properties to justify the objection proceedings herein. The averments in the affidavit and in the application are bare.
13. I concur with the submissions by the Decree Holder that the Objector has not placed sufficient evidence before this court to warrant the exercise of discretion in her favour. Apart from being the Objector, what does the Objector do for a living? This question is important as it would help the court to appreciate the ownership of the items proclaimed. Another issue that would lend credibility to the Objector’s contentions is the length or period of cohabitation she had with judgement debtor and if there are any children out of that union. The Decree-Holder has created sufficient doubt in the mind of the court as to the veracity of the Objector’s contentions.
14. For these reasons, I disallow the objection, dismiss the proceedings and prayers therein. I find that the application is not merited and I dismiss it with costs.
- It is so ordered.

DELIVERED, DATED AND SIGNED AT MACHAKOS THIS 27TH DAY OF JANUARY 2026.

N.A. MATHEKA

JUDGE

