



V. Chokaa & Co., Advocates v Roy Hauliers (Miscellaneous Cause E236 of 2024) [2026] KEELRC 69 (KLR) (23 January 2026) (Ruling)

Neutral citation: [2026] KEELRC 69 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS CAUSE E236 OF 2024
S RADIDO, J
JANUARY 23, 2026
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
AND
IN THE MATTER OF NAIROBI MAGISTRATES ELRC CAUSE NO. 165 OF 2019
V. CHOKAA & CO., ADVOCATES APPLICANT
BETWEEN
V. CHOKAA & CO., ADVOCATES APPLICANT
AND
ROY HAULIERS RESPONDENT

RULING

1. The Court delivered Ruling No. 3 in this file on 10 June 2025. Since then, Roy Hauliers (the Respondent) has filed applications dated 17 June 2025, 4 August 2025, 29 August 2025 and 4 September 2025.
2. V. Chokaa & Co. Advocates (the advocate) filed Motions (amended) dated 16 June 2025 and 17 June 2025. The Motion amended on 18 June 2025 was withdrawn.
3. This Ruling relates to the Respondent’s Motion dated 4 August 2025, seeking orders:
 - i. ...



- ii. That the Honourable Court be pleased to order a stay of execution of the warrants of attachment dated 24th July 2025 issued to Taifa Auctioneers, in so far as they relate to the motor vehicle registration No. KCK 964B, pending the hearing and determination of this application inter-partes.
 - iii. That this Honourable Court be pleased to order the immediate unconditional return of motor vehicle registration No. KCK 964B to the applicant from the custody of Taifa Auctioneers, on the grounds that it was not part of the proclamation notice for E227/2024 and its attachment is illegal.
 - iv. That the Respondent and/Taifa Auctioneers be restrained from auctioning, selling or otherwise disposing of motor vehicle registration No. KCK 964B pending the hearing and determination of the application inter-partes.
 - v. That the Respondent does pay the costs of the application.
 - vi. That any other orders as this Honourable Court deems apt and just do issue.
4. The main grounds in support of the Motion were that after the Court issued a decree in Misc Cause No. E227 of 2024, warrants of attachment were issued to Mbeki Auctioneers and the auctioneers proclaimed motor vehicles MU Reg Nos 2544 UBS, VCU 2025, MCC 62970, RB5 6915 and HAX 1910; new warrants were issued to Taifa Auctioneers before attachment on 24 July 2025 in violation of the Auctioneers Rules, 1997; it was illegal to attach an unproclaimed vehicle and that there was apprehension the vehicle would be disposed if the Court did not grant stay orders.
 5. When the Motion was placed before the Court ex-parte on 6 August 2025, it directed the Respondent to serve together with submissions before the end 22 August 2025.
 6. The Court also directed the advocate to file and serve a response and submissions before 5 September 2025. At the same time, the Court granted a conditional stay on condition that the Respondent deposited the outstanding decretal amount in Court before 11 August 2025.
 7. The advocate filed a replying affidavit in response to the Motion on 6 August 2025. In the affidavit, the advocate deponed that the Summons seeking admission of the Motion to a hearing during the vacation was incompetent because it was brought under repealed Rules; that Mbeki Auctioneers returned warrants of attachment unexecuted on 16 April 2025 and that new warrants were issued to Taifa Auctioneers lawfully.
 8. The Respondent filed its submissions on 8 September 2025. The advocates submissions were not on record.
 9. In its submissions, the Respondent quoted *Don Woods Company Limited v Katumbi & Ar (2025)* eKLR and also cited section 5 of the *Auctioneers Act* and Rule 17 of the Auctioneers Rules to argue that the Rules contemplated continuity in execution and that after warrants had been issued to one auctioneer, a new auctioneer could not come on board without leave of the Court.
 10. In the Respondent's view, the advocate should have applied for fresh warrants.
 11. The Court has considered the Motion, affidavits and submissions placed before it.
 12. The determinative question is rather straightforward, and it is whether it is open to a decree holder or an auctioneer to attach a property that was not proclaimed.



13. Rule 6 of the Auctioneers Rules requires an auctioneer to keep an inventory of attached properties. The advocate did not place any evidence before the Court that the motor vehicle KCK 964B was attached (through a proclamation) in execution of a Court decree.
14. The Court record does not have any records that the said motor vehicle was ever attached and appropriate returns made to the Court.
15. In an affidavit filed in response to a different Motion, the advocate has admitted that motor vehicle KCK 964B was sold and the monies paid out.
16. The delivery of this Ruling has been brought forward with notice to the parties.

Orders

17. On the admission by the advocate that motor vehicle KCK 964B was sold and by dint of section 26(1) of the *Auctioneers Act*, it is clear that the orders sought by the Respondent have been overtaken by events.
18. The Respondent is at liberty to take legal advice on the options available to it and move the Court appropriately.
19. Costs in the cause.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 23RD DAY OF JANUARY 2026.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For applicant V. Chokaa & Co. Advocates

For Respondent Waruiru, Karuku & Mwangale Advocates

Court Assistant Wangu

