



**Valda Solutions Limited v Biggold Kenya Limited (Civil Appeal
E287 of 2025) [2026] KEHC 411 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 411 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CIVIL APPEAL E287 OF 2025
FN MUCHEMI, J
JANUARY 22, 2026**

BETWEEN

VALDA SOLUTIONS LIMITED APPELLANT

AND

BIGGOLD KENYA LIMITED RESPONDENT

RULING

1. This application dated 29/10/2025 seeks to set aside/vary orders made in Ruiru MCCC No. E003 2025 for release of the Defendant/Respondents motor vehicles registration Nos. KBM 880 H, KCY 630 Q and KCJ 496 X as well as further orders that the applicant do pay the auctioneers fees. It also seeks for setting aside orders for stay of execution for Sixty (60) days as well as orders restraining the Defendant/Respondent from selling, disposing, alienating or otherwise dealing with the said vehicles. The application seeks for further orders that the National Transport authority NTSA be served with a caveat/restriction order in regard to the said vehicles. The alternative prayer is for the respondent to furnish security for the decretal amount of Ksh.1,971,186 plus costs and interests.
2. The appellant/applicant through its operations Manager Johnson Ndungu deposes that they obtained judgment in Ruiru Commercial Suit No.E003 of 2025 on 3rd October 2025 where the court awarded them a sum of Ksh.1.971,186 plus costs and interests. The applicant proceeded to execute against the decree and attached three vehicles of the respondent reg. numbers KMB 880 H, KCY 630Q and KCY 496 X on 24th October 2025 deposed that no stay orders had been served on them and that the said orders were served on their advocates on 28th October 2025 which was four (4) days after the execution had been carried out.
3. The applicant avers that the learned Magistrate issued substantive orders on 29/10/2025 directing the release of the said motor vehicle to the respondent and ordered that the appellant meets the auctioneers and storage charges. The applicant is aggrieved by the said orders and has lodged this appeal.



4. It is further deposed that it has learnt that the respondent company is in the verge of winding up its operations and that execution ought to proceed failure to which the appellant shall suffer loss.
5. The applicant seeks for setting aside the orders of the learned Magistrate ordering release of the said vehicles and further orders to lift the orders of stay granted in the court below.
6. The respondent in his response acknowledges the fact that judgment of Ksh.1,971,186 was entered on 03/10/2025 in favour of the appellant and in their presence in court. The respondent on its application was granted orders of stay of Sixty (60) days. The appellant was not present in court although the judgment date was given in presence of both parties. The respondent's advocate wrote to the appellants informing them of the orders of stay and advised them to hold the execution process during the stay period, which information was acknowledged by the appellant's counsel.
7. Despite having been informed of the stay orders granted by the court of first instance, the appellant went ahead and carried out execution by attaching the three vehicles of the respondent. The respondents extracted the order on 28/10/2025 and served the appellant. The respondent states that the details of the attachment and location of vehicles were not disclosed by the appellants and that the vehicles continued to be held even at the time of filing this appeal. The respondents state that they are willing to satisfy the decree but will not meet the charges of the auctioneer for attachment and storage which they term illegal.
8. There are several issues arising from this application. Firstly, it is the validity of the orders issued on 3rd of October 2025 and whether the said orders should be set aside. The second issue relates to the time the said orders were communicated to the applicant's counsel as well as whether the applicant had the opportunity of accessing the orders in the Judiciary Case Tacking System before the vehicles were attached. Thirdly, is the issue of whether the applicant deliberately ignored the orders of the lower court in carrying out the attachment of the respondent's vehicles.
9. I have perused the memorandum of appeal and noted that the orders sought therein are similar to the prayers in this application. This being the position, it would not be appropriate to decide the appeal and the application simultaneously. Order 42 governs the lodging, procedure and determination of appeals. The procedures under Order 42 must be complied with in hearing and determination of appeals. If this court were to determine this application at this stage, it would mean that the orders sought in the appeal will have been determined prematurely and in total disregard of the procedure laid down under the law.
10. I have perused the detailed submissions of the parties herein and noted that they have addressed the issues in this application together with those in the appeal in the same breath.
11. For the foregoing reasons, I hereby give directions as follows: -
 - a. That this application dated 29/10/2025 shall stand abandoned and that the parties do pursue the appeal.
 - b. That the record of appeal be filed within 30 days following which directions will be taken.
12. It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 22ND DAY OF JANUARY 2026.

**F. MUCHEMI
JUDGE**

