

REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CIVIL MISC APPLICATION NO E045 OF 2026

AMOS **KAMAU**
MUKUI.....APPLICANT

VERSUS

HENRY **KIMANI** **MUIRURI.....1ST**
RESPONDENT

DENIS **KOECH.....2ND**
RESPONDENT

NICKSON **KIPKOSGEI** **LETTING.....3RD**
RESPONDENT

AND

SEVENTY-SEVEN **AUCTIONEERS.....INTERESTED**
PARTY

Coram: Before Justice R. Nyakundi
M/s Fransisca & Chelangat Advocates
M/s Njiru Kibaru & Co. Advocates

RULING

1. Before this Court is an Application dated 17th February 2026. The Applicant has moved this Court seeking the following orders;
 - a. *That the application herein be certified urgent and heard ex parte in the first instance.*
 - b. *That this Honourable Court do issue an order of stay of execution pending the transfer and/or reallocation of ELDORET SCCC No. E660 of 2025 from the Small Claims Court at Eldoret to the Chief Magistrate's Court at Eldoret.*
 - c. *That this Honourable Court do issue an order of stay of sale of the Applicant's attached motor vehicle registration number KCR 849T, M.BUS/MATATU pending the transfer and/or reallocation of ELDORET SCCC No. E660 of 2025 from the Small Claims Court at Eldoret to the Chief Magistrate's Court at Eldoret.*

- d. That ex parte and in the interim, the motor vehicle registration number KCR 849T, M.BUS/MATATU be released to the Applicant herein unconditionally on a running attachment pending the hearing and determination of this application.*
- e. That the costs of this application be provided for.*
2. The Application is made on the following grounds;
- a. That on 22nd January 2026, the Applicant was waylaid by people claiming to be auctioneers who harassed him and took away his motor vehicle registration number KCR 849T, M.BUS/MATATU.
 - b. That the Applicant herein has come to learn that the attachment was as a result of the decree issued by this Honourable Court, which matter he has no knowledge of nor has relationship with any of the parties therein and was not a party therein.
 - c. That the 1st Respondent through his agents SEVENTY-SEVEN AUCTIONEERS has proclaimed and attached the Applicant's motor vehicle registration number KCR 849T, M.BUS/MATATU as per the notification of sale dated 21/01/2026 through misrepresentation as if the said motor vehicle belongs to the 2nd and 3rd Respondents.
 - d. That the Applicant herein was never served with any proclamation notice and notification of sale before his motor vehicle registration number KCR 849T was attached.
 - e. That the motor vehicle is at risk of being sold illegally through a public auction as the Respondents' property.
 - f. That the 1st Respondent and his agents SEVENTY-SEVEN AUCTIONEERS did not exercise due diligence as to the ownership of motor vehicle KCR 849T, M.BUS/MATATU before attaching it.
 - g. That the Applicant herein filed an objection application dated 23rd January 2026 in Eldoret SCCC No. E660 of 2025 objecting to the sale of his motor vehicle registration KCR 849T, M.BUS/MATATU in which orders were not granted due to the court therein lacking jurisdiction pursuant to the judgment in Eldoret High Court Petition No. E008 of 2024 which barred the Small Claims Court in determining personal injury claims arising from road traffic accidents.

- h. That Eldoret SCCC No. E660 of 2025 is now pending transfer and/or reallocation from the Small Claims Court at Eldoret to the Chief Magistrate's Court at Eldoret which transfer and/or reallocation is taking too long and the Applicant's attached motor vehicle is now at the verge of being sold.
- i. That the Applicant herein sought for stay of sale of his motor vehicle registration KCR 849T, M.BUS/MATATU which has been attached by Seventy-Seven Auctioneers herein, and is at risk of being sold illegally through public auction if the orders herein are not granted.
- j. That the Applicant herein seeks stay of execution from this Honourable Court pending transfer and/or reallocation of Eldoret SCCC No. E660 of 2025 from the Small Claims Court at Eldoret to the Chief Magistrate's Court at Eldoret.
- k. That it is in the interests of justice that the instant Application be allowed

Decision

- 3. That this matter is certified urgent in the first instance ex parte.
- 4. That the Application be served upon the Respondents for inter-parties hearing on 12/3/2026.
- 5. That upon reading the Certificate of Urgency and the Notice of Motion and the reasons embodied on the face of it together with the Affidavit by one Amos Kamau Mukui, assumption of the jurisdiction by the Small Claims Court on matters of personal injuries arising out of the tort of negligence within the corpus of the Road-Traffic Accidents has since been declared non-suited and ultra-vires the jurisdiction exercised by that Court.
- 6. On the issue of jurisdiction, the Courts have approached the matter as follows;
 - a. **Owners of Motor Vessel "Lilian S" v Caltex Oil (Kenya) Ltd (1989) eKLR:** *Established that jurisdiction is everything; without it, a court cannot take another step.*

- b. Samuel Kamau Macharia & Another vs Kenya Commercial Bank Limited & Others [2012] eKLR:** Affirmed that a court's jurisdiction flows only from the Constitution or legislation.
- c. Mwanje v Shikhutuli (Civil Appeal E046 of 2022) [2025] KEHC 6694:** Confirmed the High Court cannot handle matters reserved for specialized courts like the Environment and Land Court.
- d. Muli v Mbuli & another (Civil Case E135 of 2024) [2025] KEHC 3745:** Held that disputes regarding land, even if framed as damages, fall under the exclusive jurisdiction of the ELC.
- e. Gichovi v Kilem (Civil Appeal E020 of 2024) [2024] KEHC 10859:** Discussed the scope of personal injury claims within lower court jurisdictions.
7. Following the decision of the Eldoret High Court Constitutional Petition E008 of 2024, it was declared that the Small Claims Court lacks the statutory jurisdiction to hear and determine issues which touch on personal injury claims arising out of Road-Traffic Accidents claims causation. Therefore, the plea of jurisdiction on RTA claims by dint of this decision has been ousted from the Small Claims Court as of now until an Apex Court of this country rules otherwise.
8. What this means is that any action undertaken by any party arising out of a Judgement in the Small Claims Court is unenforceable as a valid decision of the Court for want of jurisdiction. Based on this recent decision a re-trial generally on the same issues should be ordered for the original trial is considered nullity for lack of jurisdiction as of now by the Small Claims Court.
9. In view of the above the following orders shall abide;
- a. That this Honourable Court do issue an order of stay of execution pending the transfer and/or reallocation of ELDORET SCCC No. E660 of 2025 from the Small Claims Court at Eldoret to the Chief Magistrate's Court at Eldoret.
 - b. That this Honourable Court do issue an order of stay of sale of the Applicant's attached motor vehicle registration number KCR 849T,

M.BUS/MATATU pending the transfer and/or reallocation of ELDORET SCCC No. E660 of 2025 from the Small Claims Court at Eldoret to the Chief Magistrate's Court at Eldoret.

c. That ex parte and in the interim, the motor vehicle registration number KCR 849T, M.BUS/MATATU be released to the Applicant herein unconditionally on a running attachment pending the hearing and determination of this application.

10. It is so ordered.

**DATED, SIGNED AND DELIVERED AT ELDORET VIA CTS THIS 26TH
DAY OF FEBRUARY 2026**

.....
**R. NYAKUNDI
JUDGE**