

THE REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
MILIMANI COMMERCIAL & TAX DIVISION
CIVIL SUIT NO. 130 OF 2006

HON. JUSTICE ALEEM VISRAM

12TH MARCH, 2026

MOHAMMAD HASSIM PONDOR (*Suing on behalf of the International Air Transport Association*).....1ST PLAINTIFF/DECREE HOLDER

**MERCANTILE LIFE AND GENERAL ASSURANCE
COMPANY LIMITED..... 2ND PLAINTIFF / DECREE HOLDER**

VERSUS

**DEBONAIR TRAVEL LIMITED.. 1ST DEFENDANT /JUDGMENT
DEBTOR**

**KENNEDY GICHUHA CHEGE.....2ND DEFENDANT/JUDGMENT
DEBTOR**

**BERITA KASWII GICHUHA..... 3RD DEFENDANT / JUDGMENT
DEBTOR**

AND

**DIRECTOR GENERAL, NATIONAL TRANSPORT
AND SAFETY AUTHORITY..... 1ST INTERESTED PARTY**

CHIEF LAND REGISTRAR..... 2ND INTERESTED PARTY

THE HONOURABLE ATTORNEY GENERAL.....3RDINTERESTED PARTY

RULING

1. Before the Court is the Notice of Motion dated 29th July, 2025. The application is not opposed and was duly served. By that application, the Decree Holders seek, in substance, three principal orders. First, that the Chief Land Registrar be directed to provide particulars of immovable properties registered in the names of the 2nd and 3rd Judgment Debtors. Second, that the shares frozen in the CDS account of the 3rd Judgment Debtor be sold and the proceeds applied towards satisfaction of the decree. Third, that the Director General of the National Transport and Safety Authority be summoned with a view to contempt proceedings arising from alleged non-compliance with the Court order of 11th February, 2025.

2. The application is founded on the history of the execution process already undertaken in this matter. The Decree Holders state that on 11th February, 2025, the Court issued orders for tracing and recovery of assets, including orders directed at public bodies and CDSC. They further state that BRS complied, CDSC complied by freezing accounts and furnishing a record of shares, but that further information on immovable property points to the land registry and that NTSA has not complied with the order directed at it.

3. I have considered the Motion, the supporting affidavit material exhibited in the application bundle, and the written submissions filed on behalf of the Decree Holders. The material before the Court also shows the earlier order issued on

11th February, 2025, the subsequent BRS response, and the CDSC statements identifying shares held in the name of the 3rd Judgment Debtor.

4. In my view, the application raises three issues for determination:-

- a.** whether the Court should direct the Chief Land Registrar to furnish information on immovable properties registered in the names of the 2nd and 3rd Judgment Debtors;
- b.** whether the Court should authorise the sale of the frozen shares held by the 3rd Judgment Debtor; and
- c.** whether a basis has been laid for further steps in respect of the alleged disobedience by the 1st Interested Party.

5. On the first issue, this Court is dealing with post-judgment execution. The Decree Holders are entitled to take lawful steps to identify assets available for satisfaction of the decree. The material placed before the Court shows that after the earlier tracing orders, KRA indicated that records relating to immovable assets are obtainable through the Ministry responsible for lands, and the Decree Holders now seek a consequential order directed to the Chief Land Registrar.

6. Under Section 34 of the Land Registration Act, a person requiring an official search is entitled to receive particulars of the subsisting entries in the register together with certified copies of relevant documents upon payment of the

prescribed fee. The Act also vests the land registrars with statutory powers in relation to information and documents concerning registered land.

7. In the circumstances of this case, and bearing in mind that the order sought is in aid of execution of a subsisting decree, I am satisfied that the Court has jurisdiction to issue a consequential order directed at the Chief Land Registrar so as to facilitate disclosure of immovable property registered in the names of the 2nd and 3rd Judgment Debtors. That order is not punitive. It is facilitative. It is intended to make effective the execution process already commenced.
8. I therefore find merit in that limb of the application.
9. On the second issue, the material before the Court shows that CDSC complied with the earlier order by freezing accounts and furnishing the shareholding information. The Decree Holders specifically seek sale of the shares held in the CDS account in the name of the 3rd Judgment Debtor. The submissions identify those shares and the account in question.
10. Order 22, rule 63 of the Civil Procedure Rules expressly provides that where the property to be sold is a share in a corporation, the Court may, instead of directing sale by public auction, authorise sale through a broker. Order 22, rule 66 further provides for delivery of shares by written order of the Court and

permits execution of the necessary transfer documentation by the judge or registrar where required.

11. Those provisions are directly applicable here. The shares have already been identified and frozen pursuant to prior orders of the Court. The law expressly contemplates sale through a broker. In my view, that is the appropriate course in the present matter.
12. I would however take a slightly more guarded course on the destination of the proceeds. The application asks that the proceeds be paid directly to the Decree Holders' Advocates. While I appreciate the objective of expeditious execution, it is more appropriate that the net proceeds be remitted either into Court or into a joint interest earning account in the names of Counsel, pending appropriation in the ordinary course of execution. That approach preserves transparency and avoids later controversy on accounting.
13. I therefore allow the prayer for sale of the shares, but with that variation.
14. On the third issue, the Decree Holders contend that the Director General of NTSA has failed, refused or neglected to comply with the order of 11th February, 2025, notwithstanding service and a penal notice.

15. The law on contempt is settled. Court orders are to be obeyed unless set aside.

In *Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & another* [2005] KEHC 1767 (KLR) the High Court underscored that obedience to court orders is a fundamental incident of the rule of law. Citing with approval the decision of the court in *GULABCHAND POPATLAL SHAH & ANOTHER CIVIL APPLICATION NO. 39 OF 1990*, (unreported), where the Court of Appeal said:-

“..... It is essential for the maintenance of the Rule of Law and good order that the authority and dignity of our courts are upheld at all times. This court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors”

In HADKINSON –V- HADKINSON (1952) 2 All ER. 567, it was held that: “It is plain and unqualified obligation of every person against or in respect of, who an order is made by a court of competent jurisdiction to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void.”

16. The Court of Appeal in *Shimmers Plaza Ltd & another v National Bank of Kenya & 3 others* [2014] KEELC 50 (KLR) further affirmed that knowledge of

an order may suffice, and that personal service is not invariably indispensable where knowledge is demonstrated.

17. Even so, contempt proceedings carry serious consequences. The Court must proceed with care. On the material before me, I am satisfied that the Decree Holders have laid a sufficient basis to require the 1st Interested Party to attend and explain the apparent non-compliance. I am not, however, prepared on the present record to make a final contempt finding without first affording the officer concerned an opportunity to respond.
18. In the result, the proper order at this stage is to summon the Director General of NTSA, or such officer as is duly authorised and fully seized of the matter, to attend Court and show cause, and in the meantime, to direct compliance with the order of 11th February, 2025, within a fixed timeline. That course is fair, proportionate and consistent with due process.
19. The upshot is that the Motion dated 29th July, 2025, succeeds in part.

Orders

20. Accordingly, I make the following orders: -

- a. **The Chief Land Registrar shall, within twenty one (21) days of service of this order, furnish to the Decree Holders and to the Court particulars of all immovable properties, if any, registered in the names**

of Kennedy Gichuha Chege and Berita Kaswii Gichuha, together with the results of official searches and such certified extracts of the register as may be necessary, upon payment of the prescribed fees.

b. The freeze earlier placed over the shares held in CDS account number 0000000990000 in the name of Berita Kaswii Gichuha shall remain in force save to the extent necessary to facilitate execution of this order.

c. Pursuant to Order 22, rule 63 of the Civil Procedure Rules, the sale of the shares held in the said CDS account is hereby authorised through a licensed stockbroker to be nominated by the Decree Holders within seven (7) days, with notice to CDSC and the other parties.

d. CDSC and the relevant broker shall take all necessary steps to effect the sale of those shares within thirty (30) days of receipt of the nomination and this order.

e. In the event that any transfer instrument, endorsement or execution document is required to complete the sale, the Deputy Registrar of this Court is authorised to execute the same in accordance with Order 22, rule 66 of the Civil Procedure Rules.

f. The net proceeds of sale, after lawful statutory charges, brokerage and transaction costs, shall be deposited within seven (7) days of receipt into a joint interest earning account in the names of the Advocates for the Decree Holders and the Advocates on record for the affected Judgment Debtor, or, in default of agreement within seven (7) days, into Court.

g. The Director General of the National Transport and Safety Authority shall comply with the order of 11th February, 2025, within fourteen (14)

days of service of this ruling and shall thereafter file and serve an affidavit of compliance.

h. The Director General of the National Transport and Safety Authority shall further attend Court on a date to be fixed by the Deputy Registrar to show cause why contempt proceedings should not issue for the alleged non-compliance with the order of 11th February, 2025.

i. In default of compliance with order (g) above, the Decree Holders shall be at liberty to move the Court for substantive contempt orders on the basis of the present application, the affidavits on record, and such further affidavit evidence as may be necessary.

j. Costs of the Motion shall be in the cause.

21. Orders accordingly.

Dated and delivered virtually via Microsoft Teams this 12th day of March, 2026

**ALEEM VISRAM, FCIArb
JUDGE**

**In the presence of;
Court Assistant: Lispa**

.....for 1st Plaintiff/Decree Holder

.....for 2nd Plaintiff/Decree Holder

.....for 1st Defendant/Judgment Debtor

.....for 2nd Defendant/Judgment Debtor

.....for 3rd Defendant/Judgment Debtor

.....for 1st Interested Party

.....for 2nd Interested Party

.....for 3rd Interested Party

ORIGINAL