

**SECURITYREPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT**  
**NAIROBI**  
**APPEAL NO. E189 OF 2022**

**RADAR SECURITY LIMITED.....APPELLANT**

**VERSUS**

**KENNEDY KHATETE OBIELE.....RESPONDENT**

**RULING**

1. What is before this court for determination is a Notice of Motion dated 19<sup>th</sup> November 2025, brought pursuant to ***Sections 1A, 1B and 3A of the Civil Procedure Act and Order 22 Rules 51, 52, 53 and 54 of the Civil Procedure Rules***. The application seeks orders restraining the Respondent from proclaiming, attaching, selling, advertising for sale, or otherwise interfering with the properties of Almahara Trading Limited and Radar Systems Limited.
  
2. The Motion is anchored on the grounds stated therein and by the Supporting Affidavit sworn on 19<sup>th</sup> November 2025 by **Albert Moruri**, who identifies himself as a manager at Radar Systems Limited.

3. Grounds in support of the Motion are that on 17<sup>th</sup> November 2025, the Respondent proclaimed properties belonging to Almahara Trading Limited and Radar Systems Limited. It is asserted that these companies have legal and equitable interests in the motor vehicles and goods proclaimed, which belong to the objectors and not to the judgment debtor.
4. The Respondent, **Kennedy Khatete Obiele**, opposed the Application through a Replying Affidavit sworn on 10<sup>th</sup> December 2025, in which he avers that **Radar Security Limited, Radar Systems Limited, and Radar Limited** are essentially one and the same security company operating under a single structure.
5. Mr. Obiele further contends that the proclaimed motor vehicle and office items belong to Radar Security Limited, the Applicant, which he claims shares the same offices, contact details, and directors as the objectors.

### **Analysis and Determination**

6. Having considered the Notice of Motion and the Respondent's Replying Affidavit, it is clear that the sole issue for determination is whether the Motion has merit.

7. **Order 22 Rule 51 of the Civil Procedure Rules**, which is central to the determination of objection proceedings, 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”.***

8. In addressing this issue, the Court in **Stephen Kiprotich Koech v Edwin K. Barchilei; Joel Sitienei (Objector) [2019] eKLR** observed as follows:

***“...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, he 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.”***

9. Essentially, an objector is required to demonstrate, through evidence, that as at the date of attachment, it held a legal or equitable interest in the property seized in execution of the decree.

10. In the present matter, the objectors assert that they are the rightful owners of the properties proclaimed by the Respondent.

11. In support of their claim, they have annexed copies of logbooks for the proclaimed motor vehicles KDR 967E and KCV 878R as proof of ownership. According to the logbooks, motor vehicle registration number KDR 967E is registered in the name of Almahara Trading Limited, while motor vehicle registration number KCV 878R is registered in the name of Radar Systems Limited.

12. The objectors have also produced a cash sale receipt dated 18<sup>th</sup> November 2024, indicating that one office desk, an office computer, and an office printer were purchased by Radar Systems Limited.

13. In view of the foregoing, the Court is persuaded that the objectors have demonstrated a legal or equitable interest in the properties attached by the Respondent through High Class Auctioneers.

14. The Respondent's assertion that **Radar Systems Limited, Radar Security Limited, and Radar Limited** are one and the same entity does not hold in light of the doctrine of corporate personality, as affirmed by the Supreme Court in

the case of *Gatuma v Kenya Breweries Ltd & 3 others [2024] KESC 52 (KLR)*.

15. Accordingly, even though the companies operate under one roof and share directors, they remain distinct legal entities under the law, each capable of entering into contracts and owning assets.

16. In the circumstances, the Notice of Motion dated 19<sup>th</sup> November 2025 is hereby allowed, with no order as to costs.

**DATED, SIGNED and DELIVERED at NYERI this 17<sup>th</sup> day of February 2026**

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**STELLA RUTTO**

**JUDGE**

**In the presence of:**

No appearance for the Appellant

No appearance for the Respondent

No appearance for the Objector

Ndati Court Assistant

## **ORDER**

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

**STELLA RUTTO**

**JUDGE**