



REPUBLIC OF KENYA



**Republic v Prabhudas & another; Rao (Administrator of Midland Hauliers Limited Administration) (Victim) (Criminal Revision E117 of 2025)
[2026] KEHC 1128 (KLR) (Crim) (28 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 1128 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL REVISION E117 OF 2025
AM MUTETI, J
JANUARY 28, 2026**

BETWEEN

REPUBLIC APPLICANT

AND

JAYESH KUMAR KOTECHA PRABHUDAS 1ST ACCUSED

M/S MIDLAND AND HAULIERS LIMITED 2ND ACCUSED

AND

**PONANGIPALLI VENKATA REMANA RAO (ADMINISTRATOR OF
MIDLAND HAULIERS LIMITED ADMINISTRATION) VICTIM**

RULING

1. The applicant vide an application dated the 26th September 2025 seeks to be enjoined as an interested party in Revision No. E117 of 2025.
2. The Revision application was filed by the office of the Director of Public Prosecutions challenging the decision of the learned Honorable magistrate declining to allow the withdrawal of charges.
3. The applicant asserts that they were heard by the Lower Court when the Director of Public Prosecutions applied to withdraw the charges.
4. Further, the applicant submitted that they were opposed to the termination of the charges in the Lower court thus they would be supporting the decision of the learned Honorable magistrate in the Revision.
5. The applicant further told this court that he was the complainant in the Lower court thus it would be prejudicial to him if he were not to be heard by this court during the hearing of the Revision.



6. The applicant cited the Victim's Protection Act as his anchor in this application and emphasized that he has a right to be heard thus this court should allow him to be enjoined in the proceedings.
7. The applicant further stated that since property was under the authority of the administrator of the company, he should be heard in the matter since it touches on the properties of the company which he has a direct interest in.
8. The applicant submitted that the other parties would not suffer prejudice if at all he is enjoined and heard like all other persons.
9. The stated desire of the applicant is to assist the court do justice to the parties in the matter.
10. The applicant contended that for one to be deemed to be a victim in law, he need not be a human being. A company could as well qualify. The applicant relied on the case of Odhiambo Vs. Attorney General & 2 Others Nyachonya (I.P) (Petition E400 of 2021) 2024KEHC 354 (KLR) where Thande J declared the provisions of Section 2 of the Victim's Protection Act as being unconstitutional for not providing for protection of rights and welfare of all victims of criminal offenses.
11. Ms Ogega prosecution counsel for the state objected to the joinder of the applicant stating that the Intended Interested party does not qualify to be considered as a victim.
12. Counsel Cited the provisions of section 522 of the [Insolvency Act](#) and argued that the administrator of the company had not suffered loss.
13. The prosecution counsel contended that the applicant intended interested party must demonstrate that he has suffered loss or harm so as to qualify to approach the court under the banner of a victim.
14. According to the prosecution counsel the role of and administrator in bankruptcy is purely administrative and does not extend to filing of criminal complaints since he is not a director.
15. Further the state took the position that an administrator can only assume the position of a witness and not a complainant.
16. In this matter the prosecution maintains that the party who suffered direct loss was Prime Bank.
17. The court was urged to define who is a victim before it can consider admitting the proposed interested party to these proceedings.
18. The prosecution further argued that the intended interested party had no locus standi in this matter and should thus not be enjoined.
19. The decision declaring the provisions of Section 2 of the victims Protection Act as unconstitutional should have been followed by a legislative amendment according to the prosecution so as to address the lacunae of law.
20. Mr. Kaka advocate for the 1st and 2nd Respondents opposed the joinder as well.
21. He submitted that he was opposed to the joinder of the intended interested party even though he conceded that the 1st witness in the charge sheet was indicated as the intended the interested party. Counsel urged the court to note that the charge sheet indicated Prime Bank Limited and M/s Tact Consultancy Services as the complainant.
22. He therefore argued that since the applicant intended interested party is not the complainant, he had no basis seeking joinder as he was essentially a witness. He relied on the grounds of objection dated 23rd October 2025 which this court has fully considered.



23. The 1st and 2nd respondents further argued that Mr. Wachira Mathui is a witness from Prime Bank Limited yet he had not applied to be enjoined in proceedings thus in his view the applicant is basically intermeddling in the matter.
24. In a quick rejoinder Mr. Mwangi counsel for the applicant submitted that the applicant had the custody of the assets that form the basis of the complaint and therefore he had every right to be enjoined in the proceedings to advance the interest of the company in his capacity as the administrator of the company.
25. Further, the Intended interested party was said to be a licensed insolvency practitioner and that he owns Tact Consultancy Services which company is named as complainant.
26. According to Mr. Mwangi, as an administrator receiver the applicant was entitled to be enjoined since the properties in issue were disposed of when he was already the administrator and that he had not consented to the transfer of the properties. He therefore had sufficient interest in the matter and did not require to be a director of the company to lodge a complaint.
27. Further, the court was urged to give Section 2 of the Victim's Protection Act a purposive interpretation to include juristic persons in the definition of a victim.

Analysis and Determination

28. The applicant Intended Interested Party seeks joinder in his capacity as the insolvency practitioner appointed to conduct the affairs of Midland Hauliers Limited which company is under his administration.
29. The matter giving rise to the instant revision is Milimani CM's Criminal Case No. E632 of 2021 in which the respondents were charged with various counts under the Penal Code and the *Insolvency Act* No 18 of 2015. A reading of the Charge sheet clearly indicates Mr. Ponangipalli Venkata Ramana Rao as a witness and the administrator.
30. In determining whether to enjoin a party as Interested Party the court must be satisfied that the person intended to be joined has an identifiable interest in the matter, demonstrable prejudice likely to be suffered if they were not joined and that they are likely to tender relevant submissions in the matter once enjoined.
31. In case of Communications Commission of Kenya & 4 others v Royal Media Services Limited & 7 Others [2014] eKLR affirmed that;
 - “(22) In determining whether the applicant should be admitted into these proceedings as an Interested Party we are guided by this Court's Ruling in the Mumo Matemo case where the Court (at paragraphs 14 and 18) held: “[An] interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...”
32. In the case of Meme v. Republic, [2004] 1 EA 124, the High Court observed that a party could be enjoined in a matter for the reasons that: “(i)Joinder of a person because his presence will result in the complete settlement of all the questions involved in the proceedings; (ii)joinder to provide protection



for the rights of a party who would otherwise be adversely affected in law; (iii)joinder to prevent a likely course of proliferated litigation.”

33. In line with the abovequoted authorities a party seeking joinder must demonstrate the interest that they hold in the matter and in this instance, this court finds that the applicant /Intended Interested party has discharged that burden. It is not disputed that he is the administrator of Midland Hauliers Limited which is one of the accused persons in the case and that the properties in issue in the criminal case are alleged to be properties belonging to the said company.
34. The applicant therefore is not a stranger to the issues that are likely to be canvassed at the hearing of the revision and his input at the hearing of the revision would certainly assist the court in making a just determination.
35. It is the view of this court that declining to enjoin the applicant would be prejudicial to him as an administrator thus this court finds that he is a necessary party to these proceedings.
36. It is important to state that the Victim’s Protection Act seeks to protect victims of crime whether human or juristic. A reading of the long title to the Act reveals that it was intended to give effect to the provisions of Article 50 (9) of the Constitution and as such a victim of crime cannot be narrowly interpreted to mean only a human -beings to the exclusion of companies or juristic persons.
37. To entertain such an interpretation, the court would rob all juristic persons of the protection afforded to Victims under the Victims Protection Act and the provisions of Sections 329D and 329E of the Criminal Procedure Code which provisions were enacted vide Act No. 5 of 2003 long before the coming into effect of the Victims Protection Act and the Constitutional entrenchment of the place of victims in our Criminal Justice System vide Article 50(9) of the Constitution.
38. The long title to the Victim’s Protection Act reads;-

“An Act of Parliament to give effect to Article 50 (9) of the Constitution; to provide for protection of victims of crime and abuse of power, and to provide them with better information and support services to provide for reparation and compensation to victims; to provide special protection for vulnerable victims, and for connected purposes”(emphasis added). The title is broad enough to include victims of crime who are not necessarily human. The intention of parliament cannot have been to exclude corporate bodies from protection under the Act.
39. The Constitution under Article 50 (9) makes a general provision for parliament to enact legislation for the protection of rights and welfare of victims of offences. the Constitution does not define the word victim therefore the constitutional provision must be given a liberal and purposive interpretation to include juristic persons.
40. This court agrees with the decision of Lady Justice Thande in Odhiambo Vs. Attorney General & 2 Others Nyachonya (I.P) (Petition E400 of 2021) 2024KEHC 354 (KLR) that to the extent that the Victims Protection Act restricts the definition of a victim Section 2 of the Act is to individuals, the section is unconstitutional.
41. The fact that legal entities such as companies have the right to acquire property under Article 40 of the Constitution, that right must be protected through the application of Criminal law where necessary thus in interpreting Section 2 of the Victims Protection Act one must bear in mind that the Act was intended to cover all victims of crimes.



42. Consequently, the application dated 29th September 2025 seeking the joinder of the Intended Interested Party is hereby allowed thus the Intended Interested Party shall proceed to file their submissions in response to the revision application.

43. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 28TH DAY OF JANUARY 2026.

A. M. MUTETI

JUDGE

In the Presence of

Habiba: Court Assistant

Kaka for the 1st & 2nd Respondent

Mwangi & Wanyoike for Interested Party/Applicant

