



**Mbuchi v Mutindi (Civil Case E103 of 2023) [2026] KEMC 54 (KLR) (26 February 2026) (Ruling)**

Neutral citation: [2026] KEMC 54 (KLR)

**REPUBLIC OF KENYA  
IN THE NAKURU LAW COURTS  
CIVIL CASE E103 OF 2023  
PA NDEGE, SPM  
FEBRUARY 26, 2026**

**BETWEEN**

**PETER WAITHAKA MBUCHI ..... PLAINTIFF**

**AND**

**JANE MUTINDI ..... DEFENDANT**

**RULING**

1. Before the court is the Defendant's Notice of Motion dated 28th October 2025. It is made, *inter alia*, under Sections 1A, 1B and 3A of the [Civil Procedure Act](#). The Defendant seeks that TRUSTGRO/SCA FIN be ordered to supply the Honourable Court with evidence and/or statement showing that on about October 2022 it transferred Kshs. 883,500/= to the account number XXXXX Equity Bank Westside Mall Branch Nakuru Town, in the name of Peter Waithaka Mbuchi. It further seeks the Honourable Court to order TRUSTGRO SCA/FIN to supply to the Honourable Court a copy of a letter dated 03/10/2022 by Peter Waithaka Mbuchi in which he declared that he had be paid Kshs. 516,500/= by Jane Mutindi and that the outstanding balance was Kshs. 883,500/= in respect to purchase of a car registration number KDB 637T.
2. The application is supported by the affidavit of Jane Mutindi, the defendant/ applicant herein, and on the following 4 grounds, that: -
  - i. Sometimes in the year, 2022, the Applicant purchased Motor Vehicle Registration number KDB 637T from Peter Waithaka Mbuchi at a cost of Kshs. 1,400,000/-.
  - ii. The Applicant paid to the Respondent Kshs. 516,500/- as the 1<sup>st</sup> instalment and the balance of Kshs. 883,500/- was financed by TRUSTGRO SCA/FIN who paid Kshs. 883,500/= to the Respondent by wiring and/ or directly transferring the said Kshs. 883,500/= to the Respondent's account at Equity Bank Westside Mall Nakuru. By such payment the Respondent was fully paid the purchase price.



- iii. The Applicant requests the Honourable Court to order TRUSTGRO SCA now known as Fin to produce and/or file in court and/or supply to the Applicant the money transfer and/or statement showing that indeed the Kshs. 883,500/- was transferred to the Respondent's account at Equity Bank and also supply to the Applicant and/or file in court a certified copy of the letter dated 03/10/2022, in which the Respondent declared to TRUSTGRO SCA, now Fin, that he has received Kshs. 516,500/= and that the outstanding amount towards the purchase of the car was Kshs. 883,500/=.
  - iv. The Applicant needs the above documents which are not in her possession as evidence that she had fully paid the Respondent the purchase price of Motor Vehicle(car) Registration Number KDB 637 T.
3. The application was served on the Plaintiff who nevertheless did not file a response. Learned counsel for the plaintiff, Mr. Karanja, however informed the court on 13/02/2026 that he had no opposition to the application. That the application did not concern them.
  4. Be that as it may, as a court of law, I have a duty in principle to look at what the application is about and what it seeks. It is not automatic that for any unopposed application, the Court will as a matter of course grant the sought orders. As held by the Supreme Court of Kenya in *Gideon S. Konbellah v Julius L. Sunkuli & 2 Others* [2018] eKLR, it behoves the court to be satisfied that prima facie, with no objection, the application is meritorious and the prayers may be granted. The court is thus under a duty to look at any points of law, such as any jurisdictional impediment, which might render the application a non-starter. I see no jurisdictional issue herein.
  5. I have looked at the application and have failed to conclusively understand the prayers sought. The applicant appears to want the court to aid her in adducing evidence for her case, and the Plaintiff has no objection to the same. My opinion is that it is the duty of the parties to call for witnesses and adduce documentary exhibits suitable for their cases. The court can only come in by compelling attendance of witnesses or production of documents through issuance of summons and subpoenas. I do therefore direct that appropriate summons may issue to the relevant witnesses as per the defendant's application herein.

**DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT**

**THIS 26<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**ALOYCE-PETER-NDEGE**

**SENIOR PRINCIPAL MAGISTRATE.**

In the presence of;

Plaintiff Counsel: N/A

Respondent's counsel: N/A

Plaintiff: N/A

Defendant/ respondent: N/A

