



Matimu v Macharia t/a Plantinum Auctioneers & 3 others (Miscellaneous Civil Application E064 of 2023) [2026] KEHC 5423 (KLR) (27 April 2026) (Ruling)

Neutral citation: [2026] KEHC 5423 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CIVIL APPLICATION E064 OF 2023**

JM NANG'EA, J

APRIL 27, 2026

BETWEEN

SAMUEL NYINGI MATIMU APPLICANT

AND

**FRANCIS MWATHA MACHARIA T/A PLANTINUM
AUCTIONEERS JUDGMENT CREDITOR**

AND

PETER SEREM CHUMO 1ST RESPONDENT

MUSONYE AYEKHA ERICK 2ND RESPONDENT

KENYA POWER & LIGHTING LIMITED 3RD RESPONDENT

RULING

1. By Chamber Summons dated 8/6/2023, one Samwel Nyingi Matimu (“the Applicant”) seeks to be admitted into these proceedings as an Interested Party. He also prays that the costs of this Application be in the Cause.
2. Through his affidavit in support of the Application, the Applicant deposes that sometime in June 2024 he saw an advertisement on the Standard Newspaper put up by White Silver Auctioneers announcing a public auction of a motor vehicle registration number KBN 873 E. He was interested in buying the vehicle and visited the Auctioneers yard to assess it. He thereafter placed his bid at the auction and emerged as the highest bidder. The Applicant further states that after making payment, the Auctioneers issued him with a Certificate of Sale thereby vesting him with lawful ownership of the vehicle.
3. The Applicant, however, laments that the 3rd Respondent sought to forcefully take away the vehicle alleging that it was irregularly and improperly sold. The 3rd Respondent is also said to have filed an



- Application challenging sale of the vehicle and so the Applicant wants to protect his interest in the matter.
4. The 3rd Respondent in the main Application opposes the Application vide Grounds of Opposition dated 4/10/2025. Inter alia it is contended that the Application is belated; that the Applicant does not demonstrate a personal or direct interest in the subject matter of this Application; that no prejudice would be occasioned by non-participation of the Applicant herein and that prejudice would be caused to the parties herein.
 5. The other parties to the main Application have not responded to this Application.
 6. The Applicant and the 3rd Respondent filed written submissions which I have perused against the rival affidavit evidence. Order 1 Rule 10(2) of the Civil Procedure Rules 2010 allows the court to join a party into proceedings before it if the party's presence is necessary for effective and complete adjudication of the question involved in the suit.
 7. In the case of Francis Karioko Muruatetu & Others vs Republic & 5 Others Petition No. 15 as consolidated with Petition No. 16 of 2013 (2016) eKLR which is cited by both parties, the Supreme Court stated the following as conditions precedent to joinder of a party as an Interested Party;
 - a. A clearly identifiable and proximate personal interest or stake in a matter has to be set out in the Application;
 - b. Clear prejudice to be suffered in the event of non-joinder should be demonstrated;And
 - c. A party needs to set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions.
 8. This Miscellaneous Application No. E064 of 2023 was filed for taxation/assessment of the Applicant's/Auctioneers Bill of Costs dated 2/3/2023 arising from the Auctioneers' Proclamation of the Defendants' properties in Nakuru Chief Magistrate's Civil Case No. 145 of 2018 pursuant to a Decree issued in the case. The Judgement Debtors in the case included the 3rd Respondent to this Application (Kenya Power & Lighting Company Limited).
 9. The Deputy Registrar of this Court taxed the Bill of Costs on 6/2/2024. The record shows that the 3rd Respondent thereafter filed a Notice of Motion, dated 26/7/2024 seeking inter alia an order cancelling Warrants of Attachment of the subject motor vehicle on the ground that it had been discharged from the said Civil Suit No. 145 of 2018.
 10. The Decree in question was issued in the lower court and the Bill of Costs dated 2/3/2023 subject of this Miscellaneous Application has been assessed/taxed before the Deputy Registrar. The Application dated 8/6/2023 is irregularly before this court in the circumstances. It should be argued either before, the Deputy Registrar or the lower court.
 11. The Deputy Registrar is directed to proceed accordingly. No order is made as to the costs of the Application.

RULING DELIVERED VIRTUALLY THIS 27TH DAY OF APRIL, 2026.

J.M. NANG'EA, JUDGE.

In the presence of:

Applicant's Advocate, Ms Kimotho for Ms Wairimu



3rd Respondent's Advocate, Mr. Ombai
Mr. Mwenda Advocate for the Decree Holder
Court Assistant (Jeniffer)

