



REPUBLIC OF KENYA



KENYA LAW
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**Solution Sacco Society Ltd v Mwobobia & another (Civil Appeal
E001 of 2026) [2026] KEHC 5873 (KLR) (Civ) (9 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5873 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ISIOLO
CIVIL
CIVIL APPEAL E001 OF 2026
SC CHIRCHIR, J
APRIL 9, 2026**

BETWEEN

SOLUTION SACCO SOCIETY LTD APPELLANT

AND

WILSON MURITHI MWOBOBIA 1ST RESPONDENT

JAMII YETU SACCO SOCIETY LTD 2ND RESPONDENT

RULING

1. What is coming up for determination is the Appellant's Notice of Motion dated 2nd February, 2026 . It seeks orders as follows:
 1. Spent
 2. Spent
 3. That further to prayer No. 2 above, this Honourable Court be pleased to issue an order for stay of any further proceedings, hearing of any action in Isiolo CMCC NO. E 007 of 2025 until the Appeal is heard and determined.
 4. That this Honourable Court be pleased to grant a stay of execution and/or enforcement of the Ruling and/or order of the Chief Magistrate in Isiolo CMCC NO. E007 of 2025. Delivered on 17th December 2025, pending the hearing and determination of this Appeal.
 5. Spent
 6. That cost of this Application to abide the outcome of the Appeal.



The Applicant's Case

2. The Applicant states that it has filed an Appeal against the order of the Chief Magistrate's Court dismissing an objection to the Jurisdiction of the said Court to entertain the suit between the parties herein , and an order for release of Motor Vehicle Reg. No. KDD 089N, which forms the subject matter of the suit .
3. It is stated that the subject motor vehicle was re-possessed by the Appellant in accordance with its by-laws and lawful loan recovering mechanisms, and its release, pursuant to the impugned Ruling will occasion it substantial in justice.
4. The Appellant further states that the Respondent is in possession of an irregularly obtained logbook which was obtained with intent to dispose of, the subject vehicle yet it is a security for the loan advanced. That the release will render the Appeal nugatory and the Appellant will not be in a position to recover the loan advanced to the Respondent.

1st Respondent's Case

5. The 1st Respondent admits that he is a member of the Appellant, and the subject Motor vehicle was used as security for the loan. However, he takes issue with the manner in which the Appellant re-possessed the Motor vehicle. He states that the repossession was carried out without due procedure, unlawfully and without the prerequisite Notice; that it was a violation of the law, the rules of Natural justice and the Constitution. He insists that the Lower Court was possessed of the jurisdiction to try the suit.
6. The Respondent further states that the Applicant is in contempt as it has yet to comply with orders of release, and these proceedings were only filed after the Respondent had filed contempt proceedings before the Lower Court. He argues that the Applicant is underserving of an equitable relief, while he is in disobedience of a Court order .
7. The parties filed Submissions, which I have read and taken into consideration in the determination of the Application.

Determination

8. A party seeking stay of execution pending Appeal must satisfy the requirements set out under order 42 (6) (2) of the Civil Procedure Rules, that is to say: -The Applicant must demonstrate substantial loss, unless stay is granted; that the Application has been brought without undue delay, and the Applicant must be ready to offer such security as the Court may deem fit. It is also trite law that the Appellant must show that it has an arguable Appeal with high chances of success.
9. The Ruling at the trial Court was delivered on 17th December, 2025, and the Application was filed on 02-02-2026. The delay was one and half months. I am satisfied that the delay was not inordinate.
10. On substantial loss, the trial Court ordered for release of M/V Reg. KDD 089W that had been re-possessed by the Appellant in realization of security for loan Advanced. The Respondent has readily admitted that the said vehicle was indeed security for the loan.
11. Generally, placement of securities for loans advanced builds confidence on continued lending to borrowers by financial institutions, as it ensures greater certainty of recovery. Thus, the importance of securing loans by movable or immovable property cannot be gainsaid. It saves the lenders, the hustle of Court Cases with the usual attendant delays.



12. The Respondent however argues that the recovery was devoid of due procedure and unlawful. However, there was no further explanation on the alleged unlawfulness or irregularity of the recovery. Further a perusal of the impugned Ruling does not show that this issue was raised at the trial court.
13. From the ruling one can decipher that the Respondent denied receiving the loan, and had sought the restraining of the vehicle from sale by the Appellant. The scenario then, and apparently now, is that the Appellant is holding the vehicle. They have pleaded that the Respondent will be unable to repay the loan if the vehicle is released.
14. I consider the release of the vehicle to the respondent to constitute a substantial loss, when considered against the rationale and significance of the security as aforesaid. I am therefore satisfied that the substantial loss has been established. The Respondent has argued that such loss can be compensated by damages. But weighed against the essence of placement of security, the loss would be more detrimental to the Applicant.
15. On security, it is not all cases that security is appropriate. This is one such one case.
16. On whether the Appeal has high chances of success. I have the perused the Memorandum of Appeal. The Appellant has raised the issue of jurisdiction and what appears, though not expressly stated, the principle of Res-Judicata. The two issues are not only substantive in nature but are issues of Law, which if argued successfully, will bring the proceedings to an abrupt end. I am satisfied that the two issues are arguable.
17. On stay of proceedings, I am equally satisfied that to allow continuity of proceedings when the lower court's jurisdiction to hear the suit is under challenge or if the suit is res judicata is uncalled for. It is trite law that jurisdiction is "everything" without which a court has no power to make any further steps in the case. (see: Owners of Motor vessel "Lilian S" vs Caltex Oil (k) Ltd (1989) KLR 1).
18. I have noted that in the Application giving rise to the impugned Ruling, the Respondent had sought injunctive orders, inter alia. To the extent that the manner of re-possession of the Motor vehicle has been contested, I have no reason to interfere with the injunctive orders.
19. In the end the Application partially succeeds and the following orders hereby issued: -
 - a. Pending the hearing and determination of the Appeal herein there shall be a stay of further proceedings in Isiolo CMCC No. E007 of 2025.
 - b. Pending the hearing of Appeal herein there shall be a stay of execution and /or enforcement of the Order 2 and 3 of the Ruling dated delivered on 17/2/2025 in Isiolo CMCC No. E007 of 2025, that is to say the release of Motor Vehicle Registration No. KDD 089N to the respondent is hereby stayed, pending the hearing and determination of the Appeal.
 - c. For avoidance of doubt the Order of injunction will subsist the determination of the Appeal.
 - d. The costs of the Application will abide the outcome of Appeal.

DATED, SIGNED AND DELIVERED VIRTUALLY, AT NAIROBI THIS 9TH DAY OF APRIL 2026.

S. CHIRCHIR

JUDGE

In the presence of:-

Roba Katelo – court Assistant



Mr. Kiogora Nganga – For the Applicant.

