



Shreeji Wholesalers & Hardware Limited v Prasun Construction Limited (Civil Appeal (Application) E251 of 2024) [2025] KECA 921 (KLR) (23 May 2025) (Ruling)

Neutral citation: [2025] KECA 921 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPEAL (APPLICATION) E251 OF 2024
MSA MAKHANDIA, JA
MAY 23, 2025**

BETWEEN

SHREEJI WHOLESALERS & HARDWARE LIMITED APPELLANT

AND

PRASUN CONSTRUCTION LIMITED RESPONDENT

(Being an Application for Injunction Restraining the Respondent from executing and/or enforcing the Judgment and Decree of the High Court of Kenya at Migori (Odera, J.) dated 4th May, 2023 in HCCA No. E025 of 2021)

RULING

1. Shreeji Wholesalers & Hardware Limited “the applicant” by Way of Notice of Motion dated 25th February, 2025 filed Under Certificate of Urgency, through Messrs. Bosire Gichana & Company Advocates, sought the certification of the said application as urgent besides other prayers. The application was placed before me on 3rd May, 2025 and upon perusal of the application, the affidavit in support thereof and annexures thereto, I was not persuaded that it was urgent and therefore declined to certify it as such.
2. By an undated letter, Messrs. Bosire Gichana & Company Advocates addressed to the Deputy Registrar of this Court and invoking rule 49 (5) of this Court’s rules, sought to have the issue of urgency heard interpartes. When the file was placed before me for directions on the letter, I directed that the question of urgency be disposed of by way of written submissions only and without appearance of counsel.
3. As at the time of crafting this ruling, the only submissions on record are those of the applicant. I notice though that the hearing notice on record was served on Messrs. Onsongo Advocates, whom I presume represent the respondent. Having been so served and elected not to file any papers in opposition to the certification as urgent of the application sought by the applicant, I take it that the request is unopposed.



4. Through his submissions and documentation, the applicant has been able to demonstrate that on 9th May, 2025 the respondent proclaimed 9 motor vehicles of the applicant. It has exhibited the proclamation, warrants of attachment, warrants of sale and auctioneer's Bill of Costs in proof of the fact. In the absence of any contestation of the above facts from the respondent, I am now satisfied that there is imminent danger of the execution of the decree that the applicant seeks the intervention of the Court.
5. In the circumstances, I now vacate the order declining to certify the application as urgent. In lieu thereof, I now certify the application as urgent.

DATED AND DELIVERED AT KISUMU THIS 23RD DAY OF MAY, 2025.

ASIKE-MAKHANDIA

JUDGE OF APPEAL

