



**Mwanzwi & 56 others v Catic International Limited (Employment and Labour Relations Cause 886 of 2012) [2025] KEELRC 1079 (KLR) (3 April 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1079 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS CAUSE 886 OF 2012**

**MN NDUMA, J**

**APRIL 3, 2025**

**BETWEEN**

**KIMANTHI MWANZWI & 56 OTHERS & 56 OTHERS & 56 OTHERS ..... CLAIMANT**

**AND**

**CATIC INTERNATIONAL LIMITED ..... RESPONDENT**

**RULING**

1. The objectors by a notice of motion application dated 17/2/2025 seeks an order in the following terms:-
  1. Spent
  2. Spent
  3. Spent
  4. That this honourable court be pleased to set aside the proclamation dated 12/2/2025 and the attendant warrants of attachment.
2. The application is premised on grounds (a) to (j) set out on the face of the Notice of Motion and buttressed in the supporting affidavit of the objector. The gist of the objection is that the motor vehicles proclaimed and carted away by the Respondent/Decree Holder do not belong to the judgment debtor, Catic International Limited but belong to the Objectors, China National Aero – Technology International Engineering Corporation and Aceg - Catic Green Field Project (JV) Limited.
3. That the attachment has grounded the operations of the Objectors and the impending attachment and sale of the same will be extremely prejudicial to the Objectors herein.
4. That records from NTSA reveal the ownership of the motor vehicles as follows:-



KCB 422C, Toyota Prado belongs to the 2<sup>nd</sup> Objector.

KBW 762C, Toyota Voxy belongs to the 2<sup>nd</sup> Objector.

KCB 971M, belongs to the 1<sup>st</sup> Objector and

KCB 837F, Toyota Prado, belongs to the 1<sup>st</sup> Objector.

5. That Auctioneers have listed other equipment belonging to the Objectors but have deliberately misspelt the registration numbers and or failed to write them with the intention to cart them away without proper records as follows:

Crane KCB 917A

Crane KCB 918A

Concrete mixer trucks

6. That the attachment if allowed to proceed shall ground the operations of the Objectors and thus stay of execution is warranted. That the Objectors and other 3<sup>rd</sup> parties not party to this suit stand to be greatly prejudiced if orders are not granted.

### **Replying Affidavit**

7. Mr. Kimathi Mwanzwi has filed a replying affidavit on behalf of the Respondents/Claimants, Decree Holders stating that some of the Claimants herein have served the two Objectors in different capacities namely Caxton Kitaka and as such both Objectors are all under Catic International Limited, the judgment debtor. The deponent has attached a certificate of service of one Caxton Kitaka dated 6/7/2011 under the letter head of China National Aero-Technology international Engineering Corporation, the 1<sup>st</sup> Objector. In the certificate the 1<sup>st</sup> Objector acknowledges, the service of Caxton Kitaka as a driver. The certificate of service bears the stamp of the 1<sup>st</sup> Objector.
8. The 1<sup>st</sup> Objector also wrote a letter dated 14/11/2013 to whomever it may concern stating that Caxton Kitaka Makuni worked as a truck driver for the 1<sup>st</sup> Objector at Jomo Kenyatta International Airport during the construction of the Terminal Building, Parking Garage and other associated works including remote stand in 2010 to date. In a letter dated 15/8/2023 the 2<sup>nd</sup> Objector wrote to Caxton Kitaka Makuni updating him on salary reduction of AGEK – CATIC Green Field Project (JV), the 2<sup>nd</sup> Objector.
9. The deponent states that the 1<sup>st</sup> and 2<sup>nd</sup> Objectors and the Respondents judgment debtor were joint employees of the 56 Claimants who are the judgment creditors in this matter.
10. That upon the objections being served to the Objectors' Human Resource Manager one George Ojwuok mobile no. 0727862715, he negotiated with the Auctioneers with a view to have the Claimants agree to be paid the decretal sum less interest.
11. That as the Claimants were awaiting an answer to the proposal, the Objectors filed the objection despite knowledge that they are subsidiaries of CATIC International Ltd in Kenya.
12. That the proclamation and warrants issued by the court were proper save that the judgment-debtor had changed to China National Aero-Technology international Engineering Corporation CATIC.
13. That the conduct by the judgment-debtor trading under China National Aero Technology International Engineering Corporation (CATIC) and Aceg – CATIC Green Field Project (JV) Ltd was a design to evade payment of the decretal sum.



14. That the application be dismissed with costs.
15. The parties made oral arguments on 17/3/2025 wherein the Objectors urged court to set aside the attachment stating that they were separate entities from the Respondent/Judgment debtor and that the attachment was wrong.
16. The decree holder urged the court to dismiss the objection stating that the Claimants served the Respondents/judgment debtor and the 1<sup>st</sup> and 2<sup>nd</sup> Objectors who were one and same entity. That the evidence tendered by the decree holder that the Claimants worked for the two Objectors has not been controverted. That the decree holder and the two Objectors are the same people who wish now to evade their liability.
17. That the deposition that the 1<sup>st</sup> Objector had made a proposal to pay the judgment debt before later rushing to court has not been controverted.
18. That if the judgment debtor wish to swap the motor vehicles and cranes held, they were free to do so and or pay the decretal sum.

### **Determination**

19. Judgment in favour of the Claimants/Decretal Holder in the sum of Kshs. 2,659,874 was entered on 30/7/2018.
20. Costs were taxed on 22/10/2018.
21. The Respondents attached the said goods at the former work place through auctioneers on 12/2/2025.
22. The deposition by the Respondents in the replying affidavit, that upon attachment, the Human Resources Manager of the 1<sup>st</sup> and 2<sup>nd</sup> Objectors entered into negotiations with the Auctioneers to have the Objectors pay the decretal sum without interest and the Auctioneers release the attached goods to the Objectors has not been rebutted by the Objectors.
23. Nothing would have been easier than the Human Resource Manager of the Objectors George Ojuok to file a further affidavit to rebut the evidence by the Respondents which has established a prima facie case that the Objectors were indeed the employers of the Claimants trading in different names including CATIC International Limited, the Judgment debtor.
24. The relief sought by the Objectors to have attached goods released is discretionally based on concrete evidence and demonstration of good faith, that they are not trying to defeat the judgment of this court and by so doing defeat the ends of justice.
25. The Claimants have demonstrated also that they have at different times worked for the 1<sup>st</sup> and 2<sup>nd</sup> Objectors and the judgment debtor and that the burden of prove had then shifted to the Objectors to demonstrate that indeed the attached properties belong to them.
26. The Objectors have failed to discharge that onus by producing original logbooks of the attached motor vehicles and Cranes and/or in the least produce certified copies of the originals. The uncertified documents produced before court do not suffice to discharge the onus placed on them.
27. The application has not been proved to the required standard and is dismissed for lack of merit.
28. Meanwhile in the interest of justice, the judgment debtor is at liberty to defray the decretal sum in three (3) instalments within three months of this ruling and the attached goods be released upon payment of the first instalment and Auctioneer's fees to the Claimants' directly and the Auctioneer respectfully.



**DATED AT NAIROBI THIS 3<sup>RD</sup> DAY OF APRIL 2025**

**MATHEWS NDUMA**

**JUDGE**

Appearance:

Mr. Gachanga for Objectors

Mr. Kimanthi in person for the Respondents/Claimants

Mr. Kemboi – Court Assistant

