



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT & LABOUR RELATIONS**

**COURT OF KENYA AT NYERI**

**SUIT NO. 246 OF 2017**

**JOSEPH KORIR.....CLAIMANT/RESPONDENT**

**VERSUS**

**RACE GUARDS LIMITED.....RESPONDENT/APPLICANT**

**RULING**

1. The application before me relates to the release of a motor vehicle attached in execution of the decree of this court. The Respondent asserts that payment in excess of the decretal sum was paid as the auctioneer inflated his charges leading to a balance of the decretal sum remaining unpaid. The Claimant in the reply indicated that only a portion of the decree had been satisfied. The auctioneer in the case acted as if the decree was in his favour and extracted a sum of Kshs. 102,644/- as his charges forwarding a paltry sum to the decree holder who is the Claimant. I ordered the refund of the sum pending this Ruling. After considering the submissions of counsel for the Respondent and the counsel for the Claimant, it is clear that the Respondent dealt with the auctioneer to the exclusion of counsel for the Claimant and ended up making payments in the name of the auctioneer in an effort to release the vehicle. The Claimant was entitled to receive the sum due to him without any deduction by either the Respondent or the auctioneer. The auctioneer is aware of the process of recovery of his costs and has no business extorting a sum that he cannot be awarded on taxation of his bill. In the premises I order that the Respondent pays the balance of costs due to the Claimant and pay reasonable auctioneers charges within 14 days of today. Claimant will be at liberty to execute the decree if it remains unsatisfied after the 2 weeks. Each party to bear their own costs.

It is so ordered.

**Dated and delivered at Nyeri this 9<sup>th</sup> day of April 2019**

**Nzioki wa Makau**

**JUDGE**

I certify that this is a

true copy of the Original

Deputy Registrar