



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO 668 OF 2010

KENYA UNION OF DOMESTIC, HOTELS, EDUCATIONAL

INSTITUTIONS HOSPITALS AND ALLIED WORKERS.....CLAIMANT

VERSUS

BOARD OF GOVERNORS

KIRINYAGA TECHNICAL INSTITUTE.....RESPONDENT

KIRINYAGA UNIVERSITY.....OBJECTOR

RULING

1. This ruling relates to the Objector's application brought by Notice of Motion dated 17th March 2017 and filed in court on 20th March 2017. The application, which is supported by an affidavit sworn by the Objector's Legal Officer, Jane Ndegwa seeks the following orders:

a) Stay of execution of decree and resultant warrant of attachment and sale issued on 10th March 2017;

b) Lifting of the proclamation and attachment of motor vehicles registration number KCE 756D, KBW 091V and KBN 583E, plasma television, photocopier machine, students' seats, office sofa sets, office desks, reception seats, coffee tables, filing cabinets, office computers, executive seat and executive desks proclaimed by Taifa Auctioneers on 13th March 2017.

2. The following are cited as grounds for the application:

a) The Objector is the equitable and legal owner of motor vehicles registration number KCE 756D, KBW 091V and KBN 583E, plasma television, photocopier machine, students' seats, office sofa sets, office desks, reception seats, coffee tables, filing cabinets, office computers, executive seat and executive desks;

b) The above listed goods were not acquired by and are not owned by the Respondent;

c) It is in the interest of justice that the proclamation be lifted to protect the Objector from having its goods wrongfully attached and sold.

3. In its reply dated 31st March 2017, the Claimant states that pursuant to the Kirinyaga University College Order, 2011 the Objector took over the operations of Kirinyaga Technical Institute. The Claimant

adds that clause 4 of the said Order provides for transfer of existing liabilities and assets from Kirinyaga Technical Institute to Kirinyaga University College.

4. The Objector's case is premised on its legal and equitable interest in the proclaimed goods. There is however an admitted nexus between the Respondent and the Objector. The Court was referred to clause 4 of the Kirinyaga University College Order which states as follows:

“All rights and liabilities and assets held by or by any body on behalf of the Kirinyaga Technical Institute existing at the commencement of this Order, shall be automatically and fully transferred to the University College.”

5. Historical data appearing on the Objector's website states that it has its roots in the Kirinyaga Technical Institute. In 2012, it became a constituent college of the Jomo Kenyatta University of Agriculture and Technology and in October 2016 it was granted a charter to operate as an independent university.

6. The effect of the foregoing is that the Objector is not a stranger to these proceedings. Having taken over the assets of the Kirinyaga Technical Institute, the Objector must also carry the liabilities of the former Institute. The objection is therefore without merit and is overruled with costs to the Claimant. The interim orders granted on 20th March 2017 are vacated.

7. Orders accordingly.

DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 1ST DAY OF SEPTEMBER 2017

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JUDGE

Appearance:

Mr. Njiru (Union Representative) for the Claimant

Ms. Wahura for the Objector