

KENYA / JUDGMENT

Mutuah v Tracom Services Ltd [2026] KEELRC 105 (KLR)

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COURT

Employment and Labour Relations Court

BEFORE

S Radido

CASE / FILE NUMBER

Cause E767 of 2021

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Mutuah v Tracom Services Ltd (Cause E767 of 2021) [2026] KEELRC 105 (KLR) (27 January 2026)
(Ruling) Neutral citation:

[2026] KEELRC 105 (KLR) Republic of Kenya In the Employment and Labour Relations Court at
Nairobi Cause E767 of 2021 S Radido, J January 27, 2026 Between Rose Wanja Mutuah
Claimant and Tracom Services Ltd Respondent

Ruling

1. For determination is a Motion dated 20 November 2025 by the Respondent seeking orders: i. ... ii. ... iii. That this Honourable Court be pleased to order a stay of execution of the warrant of attachment dated 4 th July 2025 and the subsequent Proclamation of Attachment of Respondent's goods, serial No. 6765, by Betabase Auctioneers, dated 04th July 2025, issued by Betabase Auctioneers, pending the hearing and determination of this Application inter partes. iv. That the firm of AL & C Partners Advocates LLP be granted leave to come on record for the Respondent post judgment pending the hearing and determination of this Application. v. That the attachment of the movable property proclaimed by Betabase Auctioneers on the 4th July 2024 be vacated and set aside vi. That the Court be pleased to declare that the goods proclaimed, including but not limited to listed in the proclamation, such as Reception desks and seats, Assorted desktop computers, Operative office chairs and Office Desks, Photocopy and printing machines, motor vehicles KBS 261U, KBT 499R and KCB 762M are tools of trade and are therefore exempted from attachment in execution of the Decree. vii. That the costs of this Application be borne by the Respondent. 2. The grounds in support of the Motion were that the Claimant had secured Court orders on 20 November 2025 allowing forcible entry by the auctioneers under Police support to execute; that the goods that had been proclaimed were the Respondent's necessary tools of trade and legally exempt from attachment in execution; attachment of the goods would cause the Respondent undue hardship or cessation of trade; the Motion would be rendered nugatory

of stay of execution was not granted and that the application had been brought without undue delay. 3. The Claimant filed a Grounds of Opposition to the Motion on 24 November 2025, contending that the Court had no jurisdiction to entertain the Motion because it had become functus officio; the Motion was bad in law because it was seeking the Court to sit on appeal over its Ruling of 20 November 2025, and that there was material non-disclosure by the Respondent. 4. The Court gave directions on the Motion on 25 November 2025. 5. The Respondent's further affidavit and submissions were not on record by the agreed timeline (should have been filed and served before 18 December 2025). 6. The Claimant's submissions were also not on record by the set timeline of 26 January 2026. 7. The Court has considered the record, Motion, affidavits, and Grounds of Opposition, and makes the following determinations. 8. One, a litigating party is entitled to legal representation by an advocate of choice at the time of initiation of proceedings and the hearing process or after judgment. 9. None of the parties has objected to leave being granted to the firm of AL & C Partners Advocates LLP coming on record for the Respondent post-judgment, and the leave is granted. 10. Two, prayer (iii) as drafted became spent when not granted at the ex-parte stage or during the inter-partes proceedings of 25 November 2025. 11. Three, what constitutes tools of trade has been the subject of numerous Court decisions (see *Invesco Assurance Co Ltd v Kinyanjui Njuguna & Co. Advocates & Ar*

(2020) KEHC 4103 (KLR); *Blackwood Hodge (Kenya) Ltd v Lead Gasoline Tank Cleaning Sam and Chase (K) Ltd*

(1986) KLR 749; *Master Fabricators Limited v Patrick Omondi Ndonga*

(2014) eKLR; *Voi Posho Mill v Kenya Sisal*

(1962) EA 647 and *Bora Capital Limited v Jane Njeri Munyi*

(2018) eKLR. 12. Four, although asserting that the attached goods were tools of trade, the Respondent did not place any evidence before this Court that the attached goods, being motor vehicles, desks, seats, computers, chairs, photocopier and printer, and server were its tools of trade exempt from attachment by virtue of section 44(1) of the Civil Procedure Act . 13. Five, the proclamation was on 7 July 2025. The Respondent never raised the question of tools of trade until 20 November 2025. No explanation was offered for not raising the objection any sooner, and the Court finds inordinate delay. 14. Lastly, the judgment in contention was delivered on 16 November 2023. The Respondent has not offered any iota of explanation or justification for not satisfying the decree, nearly 2 years after. 15. The delivery of this Ruling has been brought forward with notice to the parties. Conclusion and orders 16. In light of the determinations above, the Court finds the Motion dated 20 November 2025 without merit, and it is dismissed with costs to the Claimant. DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 27 TH DAY OF JANUARY 2026. RADIDO STEPHEN, MCIARB JUDGE Appearances For Claimant Mukunga Wathome & Co. Advocates For Respondent AL & C LLP Partners Advocates Court Assistant Wangu

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