Motion for an Injunction against Sale of a Proclaimed Cargo Vehicle

Educational sample 362 | Mombasa

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE HIGH COURT AT MOMBASA

CIVIL APPEAL NO [reference]

[CARGO COMPANY APPELLANT] v [INSURER AND DECREE HOLDER]

NOTICE OF MOTION

1. The Applicant seeks an injunction under the applicable appellate power restraining [decree-holder and agents] from selling or disposing of [accurately identified proclaimed vehicle] pending determination of this appeal. The impugned ruling, appeal and proposed order scope are [particulars].

2. The Applicant held [genuine policy] for the material period and seeks indemnity in the separate Mombasa suit. The underlying Makindu judgment was for KES 699,634 plus costs and interest. Policy liability remains disputed; the vehicle preservation application does not finally determine that liability.

3. The proclamation dated [verified date] identifies the property and actual threatened sale. The Applicant supports its business-use and harm allegations by [authentic records]. Describing a vehicle as the only income source requires evidence and is not assumed from the nature of the business.

4. The Applicant addresses the prima facie appellate issue, irreparable harm and balance of convenience, including the decree-holder position and any appropriate protective terms. Earlier applications, adverse orders, service and delay are disclosed. An urgency certificate is used only if genuinely justified.

5. The Applicant requests the precise interim injunction, lawful service, prompt appeal directions and costs in the cause. The source application succeeded on its record. No permanent immunity from execution or final order directing the insurer to pay is claimed by this motion.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Use the actual existing cause, applicable power and precise interim or substantive prayers with genuine supporting evidence. Disclose adverse facts, earlier applications, current orders and delay. Complete affidavit, exhibits, urgency certificate only where justified, fee and service under current directions. A proposed corrected motion does not establish that the missing facts or procedural permission exist. Check Order 42 rule 6(6), the relevant injunction power and current appellate directions. Do not substitute the distinct execution-stay test mechanically for the remedy actually sought.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A cargo company faced execution of a Makindu accident decree for KES 699,634 plus costs and interest. It sued its insurer in Mombasa for indemnity. After the subordinate court refused interim protection, it appealed and sought an injunction against sale of the proclaimed business vehicle.

The High Court allowed the 28 August 2024 injunction application pending the appeal, with costs in the cause. It did not finally determine insurer liability, cancel the Makindu decree or discharge the insured company judgment obligation.

The motion relied on Order 42 rule 6(6) and the injunction test. The alleged unserved insurer defence, judgment notification, proclamation, business impact and prejudice required actual evidence. An injunction pending appeal and a final statutory insurer judgment are different remedies; the underlying 2012 accident remained a Makindu matter.

[2025] KEHC 230 (KLR) - 23 January 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/alamin-cargo-services-limited-v-trident-insurance-company-limited-another-2025-kehc-230-klr

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/alamin-cargo-services-limited-v-trident-insurance-company-limited-another-2025-kehc-230-klr

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.