



Asset Recovery Agency v Rono & 6 others; Nakuru Equipment Supplies Limited & 3 others (Interested Parties) (Anti-Corruption and Economic Crimes Civil Suit 003 of 2024) [2024] KEHC 13429 (KLR) (Anti-Corruption and Economic Crimes) (31 October 2024) (Judgment)

Neutral citation: [2024] KEHC 13429 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES
ANTI-CORRUPTION AND ECONOMIC CRIMES CIVIL SUIT 003 OF 2024
PJO OTIENO, J
OCTOBER 31, 2024**

BETWEEN

ASSET RECOVERY AGENCY APPLICANT

AND

GIDEON KIPKURUI RONO 1ST RESPONDENT

KIPKEMOI ISAC 2ND RESPONDENT

EDWIN KIPKORIR CHERUIYOT 3RD RESPONDENT

NELSON KAMAU NJOROGE 4TH RESPONDENT

GIDION KIBET KOECH 5TH RESPONDENT

JONNES KIPKURUI CHERUIYOT 6TH RESPONDENT

GEDION KIPKOECH KIRUI 7TH RESPONDENT

AND

NAKURU EQUIPMENT SUPPLIES LIMITED INTERESTED PARTY

RENSAS INVESTMENTS LIMITED INTERESTED PARTY

MY CREDIT LIMITED INTERESTED PARTY

NCBA BANK KENYA LIMITED INTERESTED PARTY



JUDGMENT

1. By way of an originating motion dated 08.01.2024 brought pursuant to sections 81, 90 & 92 of the Proceeds of Crime and Anti Money Laundering Act (hereinafter referred to as “POCAML”) as well as Order 51 rule 1 of the Civil Procedure Rules, the applicant has moved this court for the following orders against the respondents;

a. This Honourable Court be and is hereby pleased to issue an order in the nature of a declaration to the effect that the following motor vehicles and motor cycles are proceeds of crime and thus liable to be forfeited to Government of the Republic of Kenya;

1. Motor Vehicles

- i. KDD 559P Toyota Mark X Chassis No. GRX130 6087903 in the name of Kipkemoi Isac;
- ii. KDD 060A Subaru Forester Chassis No. SJG 021 569 in the name of Gideon Kipkurui Rono;
- iii. KDG 899M Subaru Impreza Chassis No. GJ3 007811 in the name of Jonnes Kipkurui Cheruiyot & My Credit Limited;
- iv. KDG 972S Subaru Forester Chassis No. SJG 022398 in the name of Nelson Kamau Njoroge & Ncba Bank Kenya Limited;
- v. KDG 061R Subaru Forester Chassis No. SJG 019852 in the name of Edwin Kipkorir Cheruiyot and;
- vi. KDG 301T of Chassis No. GP2 020534 in the name of Gidion Kibet Koech

2. Motor Cycles

- i. KMFZ526E Bajaj Boxer Chassis No. MJD2A21BX0MVG94980 in the name of Nakuru Equipment Supplies Limited;
- ii. KMFG688D Bajaj Boxer Chassis No. MD2A18AY9LWD91856 in the name of Nakuru Equipment Supplies Limited;
- iii. KMGC024J in the name of Rensas Investment Limited;
- iv. KMFG362P Bajaj Boxer Chassis No. MD2A18AY0LWE87574 in the name of Jonnes Kipkurui Cheruiyot;
- v. KMGD635M Bajaj Boxer Chassis No. MD2A21BX7NWM88120 in the name of Gidion Kipkoech Kirui.

b. This Honourable Court be and is hereby pleased to issue and order of forfeiture of the following Motor Vehicles and Motor Cycles;

1. Motor Vehicles

- i. KDD 559P Toyota Mark X Chassis No. GRX130 6087903 in the name of Kipkemoi Isac;



- ii. KDD 060A Subaru Forester Chassis No. SJG 021 569 in the name of Gideon Kipkurui Rono;
- iii. KDG 899M Subaru Impreza Chassis No. GJ3 007811 in the name of Jonnes Kipkurui Cheruiyot & My Credit Limited;
- iv. KDG 972S Subaru Forester Chassis No. SJG 022398 in the name of Nelson Kamau Njoroge & Ncba Bank Kenya Limited;
- v. KDG 061R Subaru Forester Chassis No. SJG 019852 in the name of Edwin Kipkorir Cheruiyot and;
- vi. KDG 301T of Chassis No. GP2 020534 in the name of Gidion Kibet Koech

2. Motor Cycles

- i. KMFZ526E Bajaj Boxer Chassis No. MJD2A21BX0MVG94980 in the name of Nakuru Equipment Supplies Limited;
- ii. KMFG688D Bajaj Boxer Chassis No. MD2A18AY9LWD91856 in the name of Nakuru Equipment Supplies Limited;
- iii. KMGC024J in the name of Rensas Investment Limited;
- iv. KMFG362P Bajaj Boxer Chassis No. MD2A18AY0LWE87574 in the name of Jonnes Kipkurui Cheruiyot;
- v. KMGD635M Bajaj Boxer Chassis No. MD2A21BX7NWM88120 in the name of Gidion Kipkoech Kirui.

- c. This Honourable Court be and is hereby pleased to issue an order directing that the proprietary interests in or in respect of Motor Vehicles and Motor Cycles listed under prayers (a) and (b) above shall vest in the Assets Recovery Agency for and on behalf of the Government of the Republic of Kenya.
 - d. This Honourable Court be and is hereby pleased to issue an order directing the Director General of National Transport and Safety Authority to transfer to and register the proprietary interest in or in respect of the Motor Vehicle and Motor Cycles listed under prayers (a) and (b) above in the name of the Assets Recovery Agency and issue registration certificates thereto.
 - e. This Honourable Court be pleased to issue such ancillary orders as it may deem fit and just to issue.
 - f. The respondent be directed to pay costs of this cause.
2. The application is supported by the affidavit of Mr. Peter Mutisya, a police officer attached to the agency. He deponed that sometime in 2023 the applicant received information on a suspected case of complex theft carried on by persons who included the respondents herein against the fuliza digital borrowing platform operated by NCBA Bank Limited. Following the report, the applicant began its investigations by opening an inquiry file No. 40 of 2023 and subsequently applied for and obtained warrants in file numbers; MCMisc/E050/2023; Assets Recovery Agency v Family Bank Limited & 3 others; MCMisc /E058/2023 Assets Recovery Agency v Family Bank Limited and MC Misc / E183/2023 Assets Recovery Agency v Safaricom Limited & 3 others, to investigate bank accounts and Mpesa wallets of the respondents.



3. The applicant further commenced preservation proceedings and obtained preservation orders on 12.09.2023 in HCACECMISC/030/2023; Assets Recovery Agency v Gideon Kipkurui Rono & 10 others. The said preservation orders were published in the Kenya Gazette on 29.09.2023 vide Gazette Notice No. 13306 Volume CXXXV No. 217.
4. The deponent added that the investigations revealed that the respondents, together with others, operated a network by which they illegally and unlawfully registered over 19,000 Subscriber Identity Module (SIM) cards using credentials including Kenya Identity Card Numbers of unsuspecting members of the public. They would then use the SIM cards to borrow loans from the Fuliza borrowing platforms and thereafter the funds would be sent to a second set of phone numbers operated by the respondents or their fellow conspirators. The funds ultimately ended in being either deposited in their individual bank accounts and/or withdrawn and later deposited in mobile wallets held by the respondents and thereafter deposit them into their bank accounts.
5. He gave a tabulation of how the respondents received the monies as follows. The 1st respondents mobile phone number 07XXXXXXX31, on diverse dates between 22.01.2022 and 31.01.2022, received amounts borrowed from mobile phone numbers registered in the names of seven different subscribers. His Bank Account No. 0XXXXXXXXXX00 on 19.01.2022 received amounts borrowed from mobile phone numbers registered in the names of twenty different subscribers.
6. For the 2nd respondent, his bank accounts no. s 1XXXXXXXXXX63 and 0XXXXXXXXXX99 received funds borrowed from mobile phone numbers registered in the names of thirty and twenty-seven different subscribers respectively.
7. For the 3rd respondent, his bank account no. 0XXXXXXXXXX51 received funds borrowed from mobile phone numbers registered in the names of forty-four different subscribers.
8. For the 4th respondent, his bank account no. 0XXXXXXXXXX20 received funds borrowed from mobile phone numbers registered in the names of sixty-one different subscribers.
9. He asserted that most of the respondents' bank accounts were opened with the intention of carrying on the fuliza fraud scheme and fell into disuse with minimum balances once the scheme was unmasked.
10. He proceeded to give a narration of their findings from the investigations by declaring that;
 1. The 1st respondent operated Family Bank Account No. 0XXXXXXXXXX64, Cooperative Bank Account No. 0XXXXXXXXXX00, Mpesa Wallet No. 07XXXXXXX31 and Equity Bank Account No. 0XXXXXXXXXX28. Following an analysis of the Family Bank Account, it was established that the account was opened on 05.02.2021 and operated until 25.11.2022 with a remaining balance of 70. 53kes. Between 05.02.2021 and 21.02.2021, the account had a minimum balance of Kshs. 1,000/ and as from 22.02.2021, the bank started receiving unexplained monies via mobile money transfer ranging from Kshs. 22,000/ to Kshs. 100,000/ per transaction. He added that in some instances, the bank account would receive deposits via mobile money transfer distributed in over 90 transactions in one day using Sim cards that would be disposed in two to three days and new ones used in the same cycle and thereafter the 1st respondent would withdraw the said sum from Mpesa agents. On 09.03.2023, the 1st respondent made 23 withdrawals from an mpesa agent of between 130,075/ and 172,085/. He explained that the bank account received Kshs. 3,142,950, 572. 60 from 97,240 mobile money wallets which were described as "Paybill Credit" from over 10,000 phone numbers. He added that the bank account transferred Kshs. 3,148,040,037.23 to 35,359 mpesa agent outlets which were withdrawn in cash and that the 1st respondent deposited a total of kshs.



11,700,450.00 during the period using his phone no. 07XXXXXXX31 by 200 transactions between 05.02.2021 and 25.11.2022.

2. For the 1st respondent's Cooperative Bank Account, their investigations revealed that the account was opened on 07.07.2021 and held nominal balances of a maximum of Kshs. 7, 500/ from the date of opening up until 30.07.2021. In the month of August, 2021, the 1st respondent using his phone number 07XXXXXXX31 and 9 other numbers deposited into the bank account a sum of Kshs. 1,424,260.00. On 04.08.2021 he withdrew a sum of Kshs. 1, 500,000/ which sum was used as part payment for the purchase of motor Vehicle Registration No. KDD 060A, Subaru Forester. In the month of February 2022, he made 32 withdrawals vide mobile money between 21.02.2022 to 28.02.2022 totaling to Kshs. 720,030/, in the month of March 2022 he made withdrawals totaling to Kshs. 2, 164,000 and again in the month of May, 2022 he made deposits of Kshs. 342, 170.00 vide mobile money and withdrawals of Kshs. 336, 400/.
3. For the 1st respondent Mpesa wallet for phone no. 07XXXXXXX31, their investigations revealed that the account had received a total sum of kshs. 35,039,738.49 and sent out a total sum of Kshs. 35,023,795.39 between 01.01.2021 and 31.13.2022.
 - 2.1. For the 2nd respondent, the investigations established that he maintained a bank account no. 0XXXXXXXXXX3 with Family Bank and Mpesa wallet no. 07XXXXXXX9. The Family Bank Account No. 0XXXXXXXXXX3 was opened in May, 2021 and maintained until 03.08.2022. During the period commencing 01.05.2021 to 01.08.2022, the bank received monies from numerous mobile money wallets which were described as "Paybill Credits". He gave an example of 26.05.2021 when the bank account received 244 deposits ranging between Kshs. 1000.00 and Kshs. 87, 866.00 which pattern is repeated throughout the period. During the period between 01.05.2021 and 01.08.2022, the 2nd respondent would transfer sums to different mobile wallet upto Kshs. 200,000.00, then he would withdraw same from Mpesa agents.
 - 2.2 For the mobile wallet, Mpesa No. 07XXXXXXX9, the investigations revealed that between 0.01.2021 to 31.12.2022, the account received various sums from the NCBA and KCB bank accounts as well as varou Mpesa wallets and made several payments to mobile telephone numbers and bank accounts belonging to the other respondents aa well as other associates, suppliers and his own account at Equity bank
 - 3.1. As for the 3rd respondent, the investigations by the Agency revealed that he maintained a Family Bank Account No. 0XXXXXXXXXX51, a KCB Bank Account No. 1XXXXXX75 and several Mpesa mobile money wallets. It was established that family bank account no. 0XXXXXXXXXX51 was opened on 23.03.2021 and maintained until 19.12.2022 with the account receiving deposits and making withdrawals as follows;

Deposits



Transaction details	Amount (Kshs)
Mobile money deposits (paybill credit)	1, 705,979,921.00
Account to account transfers	2, 683,111.00
Agency cash deposit	70,000.00
Settlement	278,000.00

Withdrawals/Payments

Transaction details	Amount (Kshs)
Cash withdrawals	750,000.00
Account to account transfers	2, 683,111.00
Account to mobile transfers	1,709,062.858

He added that on 25.02.2022, the 3rd respondent withdrew Kshs. 3,223,128.00 part of which monies was used to pay for the purchase price for motor vehicle registration no. KGD 061R, Subaru Forester.

- 3.2. KCB Bank Account No. 1XXXXXX75 was opened on 03.12.2021 and maintained until 10.05.2023 during which period the account received deposits totaling to Kshs. 12,300,75/ and withdrawals totaling to Kshs. 12,299,824.40.
- 4.1. For the 4th respondent, the investigators uncovered that he maintained a bank account no. 0XXXXXXXXXX20 with Family bank and Mpesa mobile wallet numbers 07XXXXXX36 and 07XXXXXX79. The bank account was opened in April, 2021 and as at 30.04.2021 the credit balance stood at Kshs. 1, 600.00. Come 30.11.2022, deposits of Kshs. 325, 550,209.50 and withdrawals of Kshs. 324, 989,032.40 were transacted in the account. Most of the deposits made into the bank account and in particular Kshs. 323,869,769.00 were made by mobile wallets some of which were registered in the name of the of the 4th respondent and that on 24.01.2022, the 4th respondent withdrew Kshs. 1,562,000.00 which was used to make part payment for the purchase of motor vehicle registration no. KDG 972S.
- 4.2. For phone number 07XXXXXX36, it was established that it received a sum of Kshs. 16,051,461. 52 from sources which received monies obtained from amounts borrowed from fuliza digital borrowing platforms and that he transferred or withdrew Kshs. 16,037,276.09 out of such receipts.
- 5.1. For the 5th respondent, the investigators established that he maintained a Family Bank Account No. 0XXXXXXXXXX50, KCB Bank Account No. 1XXXXXX74, Equity Bank Account No. 0XXXXXXXXXX47 and mobile money wallet no. 0797XXXXXXXX3. It was found that between 01.01.2021 and 15.09.2022, the mobile wallet for phone no. 0797XXXXXXXX3 received deposits and transfers from numerous phone numbers which were proceeds derived from the fuliza fraud scheme.



- 6.1. For the 6th respondent, the investigations revealed that he maintained two Mpesa mobile money wallets numbers 07XXXXXXXX34 and 07XXXXXXXX88. Between January 2021 and December 2022, phone number 07XXXXXXXX88 received funds from numerous phone numbers suspected to have received funds borrowed from Fuliza digital borrowing platforms.
- 7.1. For the 7th respondent, the investigations showed that he maintained a Family bank Account No. 0XXXXXXXXXX65 and Mpesa Mobile Wallet No. 07XXXXXX02. The Family bank Account No. 0XXXXXXXXXX65 was opened on 05.05.2021 and the total deposits made between then and 11.10.2021 were Kshs. 600.00. Proceeds from the fuliza theft and fraud scheme started to be deposited on 12.10.2021 until 04/03/2022 whereafter the 7th respondent only made withdrawals. It is detailed that the 7th respondent received monies from the fuliza digital borrowing as follows; transfer from the 1st respondent's bank account no. 0XXXXXXXXXX64 amounting to Kshs 2,101,400/ and funds received from suspected phone numbers totaling to Kshs 555, 370.00.

Further Affidavit of Peter Mutisya Sworn on 9th April, 2024

11. In this affidavit, the deponent explains the correlation between the respondent's motor vehicles and motor cycles and the proceeds from the suspected case of theft and fraud carried out by the respondents on NCBA Bank Limited's Fuliza digital borrowing platform.
12. The deponent explains that the 1st respondent acquired motor vehicle registration no. KDD 060A vide sale agreement dated 04.08.2021 at a price and consideration of Kshs. 3, 150,000.00. On the date of execution of the agreement, he paid a deposit of Kshs. 1, 500,000.00 which sum was withdrawn from his Cooperative Bank Account No. 0XXXXXXXXXX0. The remaining balance was paid in instalments between 14.09.2021 and 21.01.2022.
13. He added that the 1st respondent purchased Motor Cycles Registration No.s KMFG688D on 02.09.2020 at a sum of Kshs. 90,000.00 and KMFZ526E on 21.07.2020 at a sum of Kshs. 143,000.00 from Nakuru Equipment Supplies Limited. For both, he paid cash.
14. For the 2nd respondent it is asserted that the investigation showed that he purchased Motor Cycle Registration No. KMCG024J from Rensas Investments Limited on 05.05.2022 at the sum of Kshs. 150, 500.00 and effected payment using his phone number 07XXXXXXXX9. An analysis of his Mpesa statement shows that on 05.05.2022 he received a sum of Kshs. 150, 000.00 from a KCB Bank account.
15. In addition, he stated that the 2nd respondent purchased motor vehicle registration no. KDD599P from Bhinder Corporation Limited vide a sale agreement dated 05.08.2021 at the sum of Kshs. 1,900,000.00 and on the day of execution of the agreement, he paid a deposit of Kshs. 1,200,000.00 and the balance of Kshs. 700,000.00 would be paid in two installments. The analysis further revealed that between 04.08.2021 and 05.08.2021, the 2nd respondent deposited a sum of Kshs.1,359,400.00 into his Family Bank Account No. 0XXXXXXXXXX63 part of which was used to purchase motor vehicle registration no. KDD599P.
16. The deponent further established that the 3rd respondent purchased motor vehicle registration no. KDG 061R from Al Siddique motors on 24/1/2022 for a total sum of Kshs. 2,950,000.00 and in this regard, he paid a deposit of Kshs. 250,000.00 and the balance was paid on the same date by the 1st, 2nd, 3rd, 5th and 7th respondents. He asserted that on 24.01.2022, the 3rd respondent withdrew a total sum of Kshs. 250,000.00 from his KCB Bank Account Number 1XXXXXXX75 which amount was used to pay for the deposit.



17. The 4th respondent purchased motor vehicle registration no. KDG 972S from Muzeef Motors Limited vide a sale agreement dated 24.01.2022 at a price of Kshs. 2,990,000.00. He paid a sum of Kshs. 780,000.00 in cash and the remaining balance of Kshs. 1,870,000.00 was paid by bank transfer. The analysis of the 4th respondent's bank account No. 0XXXXXXXXXX20 established that between 19.01.2022 and 20.01.2022, he received a sum of Kshs. 1,878,480.00 from his associates who had received monies from Fuliza fraud scheme and that on 24.01.2022 he made a cash withdrawal of Kshs. 790,000.00 then transferred or withdrew additional Kshs. 1, 573,639.00 from the same account.
18. For the 6th respondent, it is asserted that he purchased motor vehicle registration no. KDG 899M from Autozone Motors Kenya Limited vide a sale agreement dated 24.01.2022 for a sum of Kshs. 1, 550,000.00 on the understanding that he would pay a deposit of Kshs. 1,300,000.00 and the balance of Kshs. 250,000.00 by four equal monthly installments. He stated that the 6th respondent would have the funds stolen from the fuliza fraud scheme deposited into phone numbers maintained by his associates and that it was these associates that paid for a sum of Kshs. 1,380,000.00 as deposit.
19. For the 7th respondent, he detailed that he purchased motor cycle registration no. KMGD635 for a sum of Kshs. 150,000.00 sometime in August 2020 for which he paid in cash.
20. He then added that the agency investigated into the tax obligations of the respondents and found that they had filed nil returns for the years 2018,2019,2020 and 2021. It was further established that the 1st and 2nd respondents had incorporated business by the names of Gidmax Investment Limited and Kipmark Consultants Ltd but by the time of swearing the Affidavit further dealings of the two companies had not been obtained.
21. When given the chance to offer an explanation, the 1st respondent recorded a statement and said that the company was incorporated in the year 2022 for the purposes of undertaking the business of supplying foodstuffs long after the motor vehicle and cycles had been bought in the years 2021 and 2020, respectively. The said 1st respondent added in the statement with the agency that in the year 2020, he grew, harvested and sold maize, oranges, passion fruits and beans using a loan he had obtained from a friend but could not show any sales receipts for his income and further that the number he provided to be for the friend who loaned him the money could not be reached. Between 2022 and 2023 the asserted to have been employed by a company owned by one Mr. Charles Koskey where he earned a cumulative sum of Kshs. 2,200,000.00 but the deponent points out that such income was generated after the purchase of the motorcycles and motor vehicle. Regardless, his Mpesa statement shows that he only received a total sum of Kshs. 2,750 from Charles Koskey in small instalments but sent to the same person a sum of 89,900.00 during the alleged period of employment.
22. For the 2nd respondent, a recorded statement made on 14.12.2023 asserted that upon his graduation in December 2021 from St. Pauls University, he opened an electronics shop and a cloth line shop in Limuru and later undertook potato and maize farming in his father's farm at Keringet and Narok but he did not adduce any evidence to support his statement. He however had nothing to show that he acted as alleged or that he earned the sum of Kshs 1,635,000 as alleged. Even the allegations that he sold the produce through brokers could not be verified because he had no contacts of such brokers. It was pointed out that he bought the motor vehicle KDD 559P while he was still a student during which time he did not disclose his source of income.
23. For the 3rd respondent, the recorded a statement was to the effect that his money was from farming potatoes, peas and beans since the year 2018 at Kiptororo, Kuresoi North, Nakuru County, where he had rented five to seven acres of land and would fetch Kshs. 700,000 per season and used such proceeds to buy the motor vehicle Reg No. KDG061R. The investigator however observes and argues



the motor vehicle was bought in the year 2022 with no proof of any income from farming. It was equally pointed out that the family bank account no. 0XXXXXXXXXX51 and KCB Bank Account no, 1XXXXXX75 were only opened sometime in March 2021 and December 2021 respectively, long after the alleged farming enterprise and that the purchase price for the motor vehicle was in fact paid by the 1st, 2nd, 3rd, 5th and 7th respondents. That there was no documentary evidence of such farming activities nor income from the same was stressed.

24. For the 7th respondent, the statement recorded was to the effect that he undertook farming of maize and beans on 3.5 acres owned by his father and earned about 240,00 per season and later ventured into poultry farming in the year 2021 and 2022. In asserting so the respondent never provided promised to provide the contacts of his father, the details of the land on which he farmed nor his suppliers nor purchasers of the produce to support this position.
25. An analysis of his bank account showed that it was opened in the year 2021, May, and started receiving deposits in October of the same year. The deponent as an investigator views it improbable that the account could have received the proceeds from farming. In addition, even his phone that could have received such proceeds was never in operation during the year 2020
26. Attempts to reach the 4th, 5th and 6th respondents to record statements proved futile as their known phone numbers were switched off. When the phone of the 4th respondent was detected to operate on WhatsApp, he was sent a requisition compelling attendance, but he did not honour the requisition.
27. Based on the two affidavits filed, the applicant prays that the Originating Summons be allowed as prayed.

Replying Affidavit of Gideon Kipkirui Rono sworn on 01.07.2024

28. Apart from the witness statements by the 1st, 2nd and 3rd respondents recorded with the applicant, the 1st and 2nd respondents also filed a Replying Affidavits.
29. In his Replying affidavit, the 1st respondent challenges the originating motion by asserting that he purchased motor vehicle registration number KDD 060A and motor cycles registration numbers KMFG 688D and KMFZ 526E using his savings from both family and personal businesses that he operated. He avows that at the time of the purchase, him and his father operated a petrol station called Quick Service Filling Station located in Bomet County which had a monthly turnover of Kshs. 500,000.00. He added that he operated a farming business which realized a gross income of Kshs. 2,000,000.00 in the year 2020 which income he used to purchase the two motor cycles. He stated that most sales from the farm produce were sold at source to brokers who would pay either in cash or using Mpesa. He took the position that the Subaru Forester was identified by him at a car yard owned by Ms Hoza Investment Ltd, he got interested and entered into an agreement for its purchase at a price of Kshs 3,150,000, of which price he paid a deposit of Kshs 1,500,000 and balance by bank transfer and cash
30. For the 1st respondent, there was no nexus between his cooperative bank account from which he got funds to purchase the motor vehicle and the alleged fuliza fraud investigations carried by the applicant. He urged the court to stand by him and stop the applicant from unfairly taking away his property in the motor vehicle and motor cycles.

Replying Affidavit of Kipkemoi Isaac sworn on 16.05.2024

31. In resisting the originating motion, the 2nd respondent avers that on 05.05.2022 he transferred a sum of Kshs. 150,000.00 from his KCB Savings account to his Mpesa for the purchase of motorcycle registration no. KMCG024J. the respondent asserts there being no nexus between KCB savings



account and the Fuliza Fraud Investigations and that the request for forfeiture is pure witch-hunt by the applicant because that account was never subjected to investigations by the applicant.

32. For motor vehicle registration no. KDD559P he reiterates his statement recorded earlier and asserts that at the material time of purchase, he operated an electronic shop in Limuru through a proxy by the name of Shadrack Kipkurui and which had a monthly turnover of Kshs. 30,000.00, as well as a cloth line in Litein with a monthly turnover of Kshs. 50,000.00. He also engaged in online writing earning monthly revenues of Kshs. 80,000.00 besides a potato farming business in his father's 5acre farm situated in Keringet; and maize farming in another 5acre farm situated in Narok and owned by his family. From these businesses he proclaims that he earned a gross income of Kshs. 1,635,000.00 in the year 2021 around which time he purchased the motor vehicle. He asserts that he deposited most of these proceeds into his KCB savings account and that he encountered a glitch in making a bank-to-bank transfer for the purchase of his motor vehicle and was therefore forced to pay for the motor vehicle through transfers to Mpesa, withdrawals from Mpesa agents and cash payments up to a tune of kshs. 1,200,000.00. He affirms that the Mpesa deposits were all transferred from his KCB Bank account and not Family Bank account.
33. All respondent, save for 1st and 2nd respondents never entered appearance to the summons. As a consequence of such default the applicant wrote to the Deputy Registrar and invoked the provisions of section 91 of the Act and prayed that a default judgment be entered against the 3rd, 4th, 5th, 6th and 7th Respondent. The record does not however show that the request was ever acted upon.
34. However, the 1st and 3rd parties did file affidavits opposing their joinder and denouncing any interests or property rights over the motor cycles and motor vehicle the 1st and 6th respondents had bought from them. For the 1st interested party, the position taken is that the motor cycle was bought from it in cash and no longer had anything to claim over it. On his side the 3rd interested party asserted that the motor vehicle was given to it as security for the financial accommodation it had afforded the 6th respondent, but the facility had since been paid in full and the record exhibited demonstrated as much.
35. The position of the 1st interested party was opposed by the applicant on the basis that even though the motorcycles were bought in cash, their registration record continued to show that the 1st interested party remained the registered owner.
36. On the basis of their respective resistance to their joinder to be struck out of the proceedings, the 1st and 3rd interested parties filed applications in that regard. The court directed that the two applications be heard together with the originating summons. On the basis of the three applications, the court has five sets of submissions filed by the Agency, 1st and 2nd Respondents and also the 1st and 3rd respondent.

Applicant's Submissions

37. The applicant submits that it has discharged its burden of proof by adducing evidence to show that the motor vehicles and motor cycles were acquired with the proceeds of the Fuliza Fraud Scheme and that the evidential burden shifted to the respondents to challenge the evidence they adduced which they argue the respondents has failed to discharge.
38. They submit that the 1st and 7th respondents were arrested with 23 Safaricom Kenya SIM cards which were suspected to have been obtained for the purpose of committing offences and that in arguing that the motorcycles and motorcycles purchased by the respondents were obtained using funds acquired through fraudulent means, they reiterate the averments in the originating motion and the supporting and further affidavit of Mr. Peter Mutisya.



2nd Respondent's Submissions

39. The 2nd respondent submits that the applicant's case is marred with speculations and suspicions and that however strong that may be, it cannot be said to be evidence and they place reliance in the case of *Ethics and Anti-Corruption Commission v Jimmy Kiamba Mutuku Misc. Civil Application No. 804 of 2014* where the court held that a desiring party should not be blocked from accessing his property just because investigations have not revealed the source.
40. The 2nd respondent asserts that the assets in question were purchased using his KCB Savings Account No. 1215411138 and not using his Family Bank Account No. 0XXXXXXXXXX63 which was implicated in the Fuliza Fraud Scheme. He argues that his KCB Bank Account statement shows a number of transactions/withdrawals from his account on 4th and 5th August, 2021 labelled as 'car purchase' and that this account on 4th August, 2021 held a total sum of Kshs. 1, 264,822.90/ and the deposit paid for the motor vehicle by the 2nd respondent from this amount was Kshs. 1,200,000/.
41. He contends that there is no relationship between the Fuliza Fraud Scheme and the 2nd respondent's motor vehicle and motor cycle and he argues that in order to bring property within the ambit of the definition of proceeds of crime a link must be established, on a balance of probabilities, between the identified assets and the alleged offences citing the south African case of *Bobroff and another v National director of Public Prosecutions (2021) ZASCA 56; 2021 (2) SACR 53 (SCA); (2021) 3 All SA 1 (SCA)*.

Applicant's Further Submissions

42. The agency refutes the claim by the 1st respondent that the funds used to purchase motor vehicle registration number KDD 060A and motor cycles registration Nos KMFG 688D and KMFZ 526E were obtained from legitimate sources namely savings from his family and personal business, farming business and a petrol station he ran. They argue that the 1st respondent failed to disclose the location of the land where the farming took place or the parcel number of the land which he alleged to belong to his father. On the filling station, the applicant contends that this evidence is not credible and appears to be an afterthought since it was raised on 15/7/2024 yet he was served with the originating motion on 4/3/2024. They add that the 1st respondent did not attach the registration documents for the business and that the single business permits attached by the 1st respondent show that they were issued in respect of different entities that is, "Quick Service Station", "Quick Station", "Korgor", "Gorgor Quick Station", "Quick Service Station Gorgor" and "Gorgor" amongst others.
43. For motor cycle registration no. KMFZ 526E, they contend that the same was purchased on 27/01.2022 and not on 09.09.2020 as alleged by the 1st respondent and that on 27.01.2022 the 1st respondent mpesa no. 07XXXXXXXX31 received Kshs. 140,000.00 and he paid the 1st interested party via mpesa a sum of Kshs. 143,000.00 being the purchase price for the motor cycle.
44. For motor vehicle registration number KDD 060A, the applicant argues that the monies used to pay for the deposit of the motor vehicle were deposited between July 2021 and 4.08.2021 and that annexure "PM1" shows that the bank account received mpesa deposits from numbers involved in the fuliza fraud scheme including his very own phone no. 07XXXXXXXX31.
45. They add that on 09.11.2021 and 21.01.2022, the 1st respondent received Kshs. 130,000.00 from his Family Bank Account and on 21.01.2021 vide an overdraft he paid a sum of Kshs. 132, 500.00 to Hoza Investments (K) Limited for the purchase of motor cycles registration no.s KMFG 688D and he cleared he cleared the overdraft the same day.



46. For the 2nd respondent, the applicant contends that he does not explain the sources of funds deposited in his KCB Bank account and that his propagation that he run an electronic shop in Limuru through one Shadrack Kipkurui and a cloth line in Iten does not hold water since his Mpesa statements and bank accounts do not show receipt of funds from these businesses during the period between 01.08/2021 and 04.08.2021.
47. In addition, they contend that a further perusal of the 2nd respondent's KCB bank account shows that the payments of Kshs. 250,000.00 made on 04.08.2021 and described as "Pesalink Car Purchase" were not successful and the monies paid out were remitted back and thereafter transferred to different bank accounts including account no. 0XXXXXXXXXXXX51 held by the 3rd respondent and to bank accounts No. 0XXXXXXXXXX71 and 0XXXXXXXXXXXX91 and that the transaction was described as "Pesalink School Fees Pesa".

Issues, Analysis and Determination

48. I have looked at the originating motion, the responses thereto and the submissions by the applicant and 2nd respondent and determine that the issues that arise for determination by the court are: -
- a. Whether the motor vehicles and motor cycles subject of the suit and owned the respondents and sought to be forfeited are proceeds of crime as defined in law?
 - b. Whether the said motor vehicles and motorcycles are subject to forfeiture?
49. Before delving into the merits and determination of the originating Summons, the court considers it a preliminary matter to determine the two applications by the 1st and 3rd interested parties seeking to be struck out of the suit. The position by the two is simply that they no longer have proprietary interests in the assets once registered in their names. For the 3rd interested party, the position is clear that it is no longer reflected as a registered owner after its loan was paid in full. That position has not been controverted and appears incontrovertible. The court finds the 3rd interested party not to be a necessary party in these proceedings. It is struck out of the proceedings.
50. While the 1st interested party renounces any interest in the two motorcycles for reasons that it sold and received the purchase price in full, the applicant contends and has exhibited certificate of records from the National Transport and Safety Authority to show that the two cycles remain registered in the 1st interested party's name. The court takes the view that section 83(3) of POCAMLA secures the right of a property owner to assert such right. It secures the right to be heard before a property is forfeited. That is the purpose and rationale of the requirement that the preservatory order be gazetted. It is not an obligation that such an owner participates. The court thus cannot coerce a party to assert a property right it has renounced. In this matter the 1st interested party says he has no interest in the two motorcycles, and may now care whether the same are forfeited. It surely lacks interest and cannot be forced to recreate any. The court considers the 1st interested party an unnecessary party to the proceedings and strikes out its name.
51. Section 2 of POCAMLA widely defines what constitutes proceeds of crime to mean any property or economic advantage derived or realized, directly or indirectly, as a result of or in connection with an offence irrespective of the identity of the offender and includes, on a proportional basis, property into which any property derived or realized directly from the offence was later successively converted, transformed or intermingled, as well as income, capital or other economic gains or benefits derived or realized from such property from the time the offence was committed.



52. Section 81 of POCAMLA on its part recognizes forfeiture proceedings to be civil in nature with Section 92 of the same Act further providing that the standard of proof is on a balance of probabilities. A wholesome reading of part VIII of the POCAMLA is that in order to discharge its burden of proof under section 107 of the *Evidence Act*, the applicant must demonstrate that there are reasonable grounds to believe that funds or property held by a respondent are proceeds of crime.
53. In this matter, towards the discharge the legal burden, the applicant through the affidavit of Mr. peter Mutisya asserts on oath and with documentary proof that sometime in April, 2023, it received information on a suspected case of a complex theft or fraudulent scheme carried on by persons who included the respondents herein against the fuliza digital borrowing platform operated by NCBA Bank Kenya Limited. The investigations commenced and established that the respondents and their cohorts illegally and unlawfully registered over 19,000 SIM Cards using credentials of unsuspecting members of the public and would then use the SIM cards to borrow loans from the fuliza borrowing platform then send the borrowed funds to a second set of phone numbers operated by the respondents of their conspirators.
54. For clearer analysis, the court will address each respondent independently with the view to establishing if any of the assets was indeed obtained by any funds established to be proceeds of crime. In proceeding in that trajectory, the court takes into account that while 1st, 2nd and 3rd respondents recorded statements of explanation, only 1st and 2nd respondents resisted the application by way of Replying Affidavits. The 4th, 5th, 6th and 7th respondents neither recorded statements nor filed any affidavits. They have not challenged the assertions by the applicant and the court having received the request for default judgment and having read the affidavit of service which disclosed due and sufficient service, it enters judgment against those four respondents

1st Respondent

55. The 1st respondent is said to have purchased motor vehicle registration number KDD 060A and motor cycles registration no.s KMFG 688D and KMFZ 526E using funds obtained from the fuliza borrowing scheme.
56. According to the sale agreement dated 04.08.2021, the 1st respondent acquired motor vehicle registration no. KDD 060A from Hoza Investments Limited at a sum of Kshs. 3, 150,000.00 and that on the date of execution he paid a deposit of Kshs. 1, 500,000.00 and the balance of Kshs. 1,650,000.00 was paid by the 1st respondent and his associates between 14.09.2021 and 21.01.2022. He explained that the funds used to purchase the motor vehicle was obtained from his savings from both family and personal businesses that he operated, a petrol station called Quick Service Filling Station located in Bomet County which he ran together with his father and which had a monthly turnover of Kshs. 500,000.00 and a farming business which realized a gross income of Kshs. 2,000,000.00 in the year 2020.
57. In support thereto, the only documents adduced by the 1st respondent is a delivery note for the petrol filling station which apparently received its first order of 1000 liters on 24.07.2021. There is no indication of how much the fuel was sold for nor how regularly deliveries were made to help approximate the turnover. He asserts that he operated the business with his father and that he earned an income of Kshs. 500,000.00 every month. If the business began its operations on 24.07.2021 making revenue of Kshs. 500,000.00 every month, it makes no logical sense that his Cooperative Bank Account No. 0XXXXXXXXXX00 whose deposits until 01.08.2021 was kshs. 1,000.00 suddenly received deposits from Mpesa in the sum over Kshs. 1,500,000.00 in a span of four days and for a business that just started he withdrew the money on 04.08.2021 to purchase the motor vehicle in question. The



court finds that the 1st respondent wholly failed to prove his source of income to the required standard. The court takes persuasion in the decision in *Assets Recovery Agency v Lilian Wanja Muthoni t/a Sahara Consultants & 5 others* (2020) eKLR where the court held as follows;

“I believe I would not be remiss if I asserted as an incontrovertible truth that money and assets are not plucked from the air or, like fruits, from trees. They can be traced to specific sources- salaries, businesses in which one sells specific items or goods, or provides professional services. There must be books of accounts, stock registers, local purchases orders and delivery notes showing to whom goods are sold, deliveries made and payment receipts showing from whom payment has been received.”

58. The 1st respondent has failed to explain the circumstance in which one Kingeno Rono and Lizzy Auma Angima assisted him in clearing the balance of the purchase price. No explanation was given on the basis upon which the financial assistance and benefit were extended to him by the two people. Without plausible explanation, the asset remains unexplained. When so unexplained it becomes an asset disproportionate to the respondent's known source of income at the material time. Such property is ipso facto illicit. See *Asset Recovery Agency vs Pamela Aboo; Stanley Mombo Amuti Vs Kenya Anti-Corruption Commission and Kenya Anti-Corruption Commission Vs Ministry of Medical services and Another*.
59. With the 1st respondent having failed to explain and demonstrate his source of income, the applicant's assertion that he obtained his funds through fraudulent means remains uncontroverted and the court thus finds and holds that the purchase of motor cycles registration numbers KMFG 688D and KMFZ 526E was from proceeds of crime.

2nd respondent

60. It is his defence the 2nd respondent asserts that on 05.05.2022 he transferred a sum of Kshs. 150,000.00 from his KCB Savings account to his Mpesa for the purchase of motorcycle registration no. KMCG024J and argues that there is no link between his KCB savings account and the Fuliza Fraud Investigations. I have looked at this statement and I have noted a trend where from 02.08.2021, the 2nd respondent began to receive tens of thousands up to hundreds of thousands in a day which he would thereafter withdraw. He explained that he got this money from businesses he ran.
61. For motor vehicle registration no. KDD559P, the 2nd respondent avows that at the material time of purchase he operated an electronic shop in Limuru through a proxy by the name of Shadrack Kipkurui which had a monthly turnover of Kshs. 30,000.00, he further had a cloth line in Litein with a monthly turnover of Kshs. 50,000.00, he did online writing earning monthly revenues of Kshs. 80,000.00 and he also operated a potato farming business in his father's 5acre farm situated in Keringet and that he did maize farming in another 5acre farm situated in Narok and owned by his family and from these businesses he proclaims that he earned a gross income of Kshs. 1,635,000.00 in the year 2021 around which time he purchased the motor vehicle. He asserts that he deposited most of these proceeds into his KCB savings account. I have skimmed through the statement and on 02.08.2021 alone the 2nd respondent had deposited into his KCB Savings Account a sum of Kshs. 1,329,022.90. As explained by the 2nd respondent, it beats logic that a clothing business with a monthly turnover of Kshs. 30,000.00, a cloth line in Litein with a monthly turnover of Kshs. 50,000.00 an online writing earning monthly revenues of Kshs. 80,000.00 and a seasonal farming business would in a span of one day generate Kshs. 1,329,022.90.00. Furthermore, no evidence was tendered to show that 2nd respondent indeed run the businesses he alleged.



3rd respondent

62. He purchased Motor Cycle Registration No. KMCG024J from Rensas Investments Limited on 05.05.2022 at the sum of Kshs. 150, 500.00 which he paid via Mpesa using his phone number 07XXXXXX9. His Mpesa statement shows that on 05.05.2022 he received a sum of Kshs. 150, 000.00 from a KCB Bank account.
63. He further purchased motor vehicle registration no. KDD599P from Bhinder Corporation Limited vide a sale agreement dated 05.08.2021 at the sum of Kshs. 1,900,000.00 and on the day of execution he paid a deposit of Kshs. 1,200,000.00 and the balance of Kshs. 700,000.00 would be paid in two installments. Between 04.08.2021 and 05.08.2021, the 2nd respondent deposited a sum of Kshs.1,359,400.00 into his Family Bank Account No. 0XXXXXXXXXX63 and part of this money was used to purchase motor vehicle registration no. KDD599P.
64. He again purchased motor vehicle registration no. KDG 061R from Al Siddique motors on 24.01.2022 for a total sum of Kshs. 2,950,000.00 and in this regard, he paid a deposit of Kshs. 250,000.00, which he withdrew from KCB Bank Account Number 1XXXXXX75, and the balance was paid on the same date by the 1st, 2nd, 3rd, 5th and 7th respondents.
65. The 3rd respondent despite having been duly served did not participate in the proceedings.

4th respondent

66. The 4th respondent purchased motor vehicle registration no. KDG 972S from Muzeef Motors Limited vide a sale agreement dated 24.01.2022 at a sum of Kshs. 2,990,000.00 and he paid a sum of Kshs. 780,000.00 in cash and the remaining balance of Kshs. 1,870,000.00 was paid by bank transfer. Between 19.01.2022 and 20.01.2022, the 4th respondent's bank account No. 0XXXXXXXXXX20 received a sum of Kshs. 1,878,480.00 and on 24.01.2022 he made a cash withdrawal of Kshs. 790,000.00 and on the same date he again withdrew Kshs. 1, 573,639.00.
67. Despite having been duly served, the 4th response neither filed a response to the accusations by the application nor did he participate in the proceedings. In the absence of an explanation as to the source of funds suspected to have been used to purchase motor vehicle registration no. KDG 972S, the asset remains unexplained.

5th respondent

68. For the 5th respondent, the applicant's case was that the evidence availed established that he maintained a Family Bank Account No. 0XXXXXXXXXX50, KCB Bank Account No. 1XXXXXX74, Equity Bank Account No. 0XXXXXXXXXX47 and mobile money wallet no. 0797XXXXXX3. The investigations established that between 01.01.2021 and 15.09.2022, the mobile wallet for phone no. 0797XXXXXX3 received deposits and transfers from numerous phone numbers which were proceeds derived from the fuliza fraud scheme. The applicant is thus seeking to have his motor vehicle registration no. KDG 301T and motor cycle registration number KMGD635M forfeited to the state.
69. In support of the proposition that the funds used to acquire these assets was from the fuliza scheme, the applicant provided the 5th respondent's Mpesa statement for the year 2022. An analysis of the statement shows that the 5th respondent received funds from different people under the description 'Fuliza Mpesa'. The statement further shows receipt of salary from Family Bank with the following break down; on 24/1/2022 he received a sum of Kshs. 150,000.00 and three minutes later he received a sum of Kshs. 100,000.00 under the description salary. Later in the day he received 5,000.00 and on



30.4.2022 and amount of Kshs. 4,000.00 and another Kshs. 1,000.00 were credited into his account and this trend is observed for the following days. The clarity and explanation the 5th respondent was expected to make is how much was his salary? Was the salary being paid in bits of unequal amounts? Without such explanation, the court finds these transactions to be an attempt by the 5th respondent to disguise the illicit source of the funds.

70. Despite service of the motion, the 5th respondent did not come on record to explain how he acquired his motor vehicle and motor cycle and for that reason, motor vehicle registration no. KDG 301T and motor cycle registration number KMGD635M remain unexplained otherwise but as proceeds of crime.

6th respondent

71. The applicant assert that the 6th respondent purchased motor vehicle registration no. KDG 899M from Autozone Motors Kenya Limited vide a sale agreement dated 24.01.2022 for a price of Kshs. 1,550,000.00 and that it was the term of the agreement that he would pay a deposit of Kshs 1,300,000.00 with the balance of Kshs 250,000.00 made payable in four monthly installments.
72. I have looked at the sale agreement which disclose the buyer as one Precious Cheronno. The deposit of Kshs. 1,380,000.00 was paid in four tranches by the said Precious Cheronno, the 6th respondent and their two other associates. Interestingly, the 6th respondent approached Momentum Credit for a buy off facility to offset the balance with the seller. It is not clear when the buyer now became the 6th respondent. It appears Precious Cheronno was a proxy of the 6th respondent.
73. Just like the Mpesa statement of the 5th respondent, the Mpesa statement of the 6th respondent shows a number of credits under the head 'Fuliza Mpesa'.
74. The 6th respondent even when duly served offered no statement nor a response to the application and thus participated in the proceedings to explain the circumstances under which his associates hugely contributed to the purchase of his motor vehicle and how the funds were acquired. The court thus finds that the motor vehicle was acquired with the use of unexplained money. When so unexplained, it attracts the inference that it was illicitly obtained. The court make that inference and finds that the motor vehicle was illicitly acquired and ought to be forfeited.

7th respondent

75. The totality of the evidence availed by the applicant is the 7th respondent purchased motor cycle registration no. KMGD635 for a sum of Kshs. 150,000.00 sometime in August 2020 and paid in cash. The court has looked at the Mpesa statement annexed in support of the claim and the same is evidently for the period between May, 2021 and May, 2023. If the accounts were opened and started receiving the tainted money in May 2021, such money was received well after the motorcycle had been acquired. To the court, the 7th respondent did receive money from the fuliza scheme directly, from suspected phone numbers and from the 1st respondent to sufficiently prove receipt of proceeds of crime, but there was no evidence that the subject motor vehicle was an acquisition out of such proceeds.
76. However, the spirit of POCAMLA, as a tool of combating illicit trace and money laundering, is to deprive the beneficiary of such illicit income every time one fails to explain the sources of money or property to be legal. The court has dutifully read the explanation given by the 7th respondent in the statement which at the onset sought to show that the motorcycle was bought out of income from farming. However, he never gave the needed information to help verify his assertions. To court nothing was difficult in the respondent disclosing to the applicant the contact of his father, the parcel number where the farming was conducted and even a document to show that he earned the alleged Kshs



240,000 from the farming activities. That failure leaves the source of the money used to purchase the motorcycle as unexplained. When unexplained, it becomes amenable to be reasonably suspected as a proceed of crime and liable for forfeiture

77. For that reason, the respondent having failed to explain how he earned the money funds used to acquire the motor cycle registration number KMGD635M the reasonable suspicion remains unshaken and the motor cycle is adjudged a proceed of crime. The motor vehicle thus ordered be subjected to forfeiture.

78. Having resolved the motor vehicles and motor cycles acquired by the 1st, 2nd, 3rd, 4th, 6th and 7th respondents were purchased using funds which are determined proceeds of crime, the next course of action to take would be to forfeit the assets to the government as observed in the case of Abdulrahman Mahmoud Sheikh & 6 others v Republic & others (2016) eKLR where the court held as follows;

“44. The letter, spirit purpose, and gravamen of the *Proceeds of Crime and Anti-Money Laundering Act* is to ensure that one doesn't benefit from criminal conduct and that should any proceeds of criminal conduct be traced, then it ought to be forfeited, after due process, to the state, on behalf of the public which is deemed to have suffered some injury by the criminal conduct...

47. The law as I understand it is that the *Proceeds of Crime and Anti-Money Laundering Act* seeks to disable criminal networks and there may be no better way to achieve that goal otherwise than by financial starvation.”

79. The end result is that the application dated 08.01.2024 is allowed and the following orders are made;

1. A declaration that Motor Vehicles;

- i. KDD 559P Toyota Mark X Chassis No. GRX130 6087903 in the name of Kipkemoi Isac;
- ii. KDD 060A Subaru Forester Chassis No. SJG 021 569 in the name of Gideon Kipkurui Rono;
- iii. KDG 899M Subaru Impreza Chassis No. GJ3 007811 in the name of Jonnes Kipkurui Cheruiyot & My Credit Limited;
- iv. KDG 972S Subaru Forester Chassis No. SJG 022398 in the name of Nelson Kamau Njoroge & Ncba Bank Kenya Limited;
- vi. KDG 061R Subaru Forester Chassis No. SJG 019852 in the name of Edwin Kipkorir Cheruiyot
- vii. KDG 301T of Chassis No. GP2 020534 in the name of Gidion Kibet KoeCH and; Motor Cycles;
- i. KMFZ526E Bajaj Boxer Chassis No. MJD2A21BX0MWG94980 in the name of Nakuru Equipment Supplies Limited;
- ii. KMFG688D Bajaj Boxer Chassis No. MD2A18AY9LWD91856 in the name of Nakuru Equipment Supplies Limited;
- iii. KMGC024J in the name of Rensas Investment Limited;
- iv. KMFG362P Bajaj Boxer Chassis No. MD2A18AY0LWE87574 in the name of Jonnes Kipkurui Cheruiyot;



- v). KMGD635M, Bajaj Boxer, Chasis No. MD2A21BX7NWM88120, In The Name Of Gidion Kipkoech Kirui; are proceeds of crime and are hereby forfeited to Government of the Republic of Kenya. Let forfeiture orders issue forthwith.
2. The proprietary interests in the said motor vehicles and cycles are vested in the Applicant and the Director General, National Transport and Safety Authority, is hereby directed to transfer to and register the proprietary interest in respect of the Motor Vehicles and Motor Cycles listed in (1) above in the name of the Assets Recovery Agency and issue registration certificates thereto.
3. Costs of the suit are awarded to the applicant.

DATED, SIGNED AND DELIVERED VIRTUALLY, THIS 31 DAY OF OCTOBER, 2024

PATRICK J O OTIENO

JUDGE

