



Britam General Insurance Company Limited v Ng'ang'a (Civil Suit E006 of 2024) [2025] KEHC 9441 (KLR) (10 June 2025) (Ruling)

Neutral citation: [2025] KEHC 9441 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
CIVIL SUIT E006 OF 2024
GL NZIOKA, J
JUNE 10, 2025**

**BETWEEN
BRITAM GENERAL INSURANCE COMPANY LIMITED PLAINTIFF
AND
NOAH KINYANJUI NG'ANG'A DEFENDANT**

RULING

1. By a notice of motion application dated 6th February 2025, brought under the provision of Order 51 Rule 1 of the Civil Procedure Rule, section 3A and 63(e) of the *Civil Procedure Act* and all other enabling provision of the law, the Applicant is seeking for the following orders:
 - a. That this application be certified as urgent and service of the same be dispensed with in the first instance.
 - b. That this Honourable Court be pleased to stay proceeding in Nakuru Chief Magistrate's Court being Nakuru CMCC no. E248 of 2024 Samuel Pius Mokaya vs Noah Kinyanjui Ng'ang'a pending inter-parties hearing of the application.
 - c. That there be stay of proceeding before the Nakuru CMCC No. E248 of 2024 Samuel Pius Mokaya vs Noah Kinyanjui Ng'ang'a and/or any other suit subsequently filed arising from the accident 24th December 2023 involving the Defendants Motor Vehicle Registration KCM 578R pending the hearing and determination of the suit herein.
 - d. That the cost of this application be provided for.
2. The Application is based on the following grounds:
 - a. That the vide Ruling dated 6th September 2024, the Honourable Court granted leave to the applicant herein to file an application for stay in the event a suit was filed against the Respondent herein before the conclusion of the main suit by the plaintiff/applicant.



- b. That consequently, a civil suit has since been filed in Nakuru Chief Magistrate's Court being Nakuru CMCC no. E248 of 2024 Samuel Pius Mokaya vs Noah Kinyanjui Ng'ang'a against the defendant herein seeking damages resulting from an alleged road traffic accident involving the defendant's Motor Vehicle Registration Number KCM 578R, and the same might proceed to completion thereby expecting the plaintiff herein to make good the judgment which it should not.
 - c. That the primary suit in the subordinate court, Nakuru Chief Magistrate's Court being Nakuru CMCC No. E248 of 2024 Samuel Pius Mokaya vs Noah Kinyanjui Ng'ang'a is compensatory claims for loss and damages arising from a road traffic accident involving the defendants motor vehicle registration KCM 578R and a third-party Motor Vehicle Registration KAT 254R wherein passengers aboard were seriously injured.
 - d. That the said Motor Vehicle Registration KCM 578R is the subject matter of an Insurance Policy Cover No. 552/700/1/0XX94/2023/0X issued to the defendant herein by the plaintiff/applicant.
 - e. That upon investigations it was discovered that at the time of accident the Motor Vehicle Registration KCM 578R was being used to ferry fare paying passengers in breach of the provisions of the insurance policy entered into by the plaintiff and the defendant.
 - f. That in the event the compensatory suit in the subordinate court proceeds to conclusion and judgment is issued, then the plaintiff therein would be at liberty to enforce the judgment against the plaintiff/applicant herein as the insurer of the defendant's motor vehicle, which event would render the instant application and suit herein a mere academic exercise.
 - g. That in the circumstance, it would be prudent and in the interest of justice that further proceedings in any court arising from the accident on 24th December 2024 involving the defendant's Motor Vehicle Registration KCM 578R be stayed pending the outcome of this Application and the disclaimer suit herein.
3. The Application is also supported by an affidavit sworn by Peter Makau the legal officer of applicant's firm.
4. I have considered the same and note that although a response has not been filed by the respondent, the subject matter herein is a suit being Nakuru CMCC NO: E248 of 2024, wherein the plaintiff is one Samuel Pius Mokaya. If the orders sought are granted the plaintiff will be affected yet he is not a party to the matter. In that case I disallow the application and direct that the applicant if so desired can find a way of prosecuting the same.
5. In conclusion application not allowed.

DATED, DELIVERED AND SIGNED THIS 10TH DAY OF JUNE, 2025.

GRACE L. NZIOKA

JUDGE

