

# Court told of case with two rulings

By AUSTIN KIGUTA  
A CASE involving two construction companies in which an appeal court judge gave two contradictory rulings yesterday resurfaced for hearing before Milimani Commercial Courts.

"Is this the matter which you said there were two judgements?" Justice Onyango Otieno asked. "I have never seen anything like this before," he added.

Lawyer representing Niazsons Kenya Limited Rajinder Billing told the court that he had the two judgements. In one of the judgements, Justice Emmanuel O'Kubasu of the Court of Appeal allowed Niazsons to be paid Shs 609 million by China Road and Bridge Corporation of Kenya while he allowed it in the other judgment.

Billings said that the judgements were delivered on the same day and both copies certified by the court.

Cecil Miller Jr. told the court in yesterday's hearing that the matter arose from Court Summons dated February 16, 1999 and an amended Notice of motion on March 18, 1999.

Miller said that the Niazsons lawyers stated that the hearing proceedings and determination of a suit filed by it against his China Road and Bridge Corporation of Kenya Company in the Civil Suit Number 126 of 1999, be stayed.

The lawyer said that the matter between the parties be referred to Arbitration in accordance with the Amended Act of 1995 and the Arbitration Ruling of 1999.

Miller said that China Road and Bridge Corporation of Kenya Company and the government of

Kenya entered into an agreement for the construction of Holo-Garsen Road, China Road and Bridge Corporation of Kenya Company were the main contractors and engaged Niazsons as Sub-Contractors.

Lawyer Miller told the court that on May 12, 1996, China Road and Bridge Corporation of Kenya Company entered into a contract with the Kenya Government for the construction of the Holo-Garsen- Malindi Road.

On the same day, China Road and Bridge Corporation of Kenya Company entered into a sub-contract with Niazsons under which Niazsons undertook to carry out the construction work of over 52 kilometres, on behalf of the main contractor.

Miller said that by asking for payment of the two Completion Certificates Number One and Two, Niazsons Company wished to raise Shs 556,663,726 from his clients despite several disputes arising out of the construction work.

The lawyer referred to the two where the difference in the number of days China Road and Bridge Corporation of Kenya Company allegedly delayed in the payment of the Certificates of Completion. He cited the First Completion Certificate, where Niazsons claimed that China Road and Bridge Corporation of Kenya Company had allegedly delayed for 122 days and another where there was an alleged delay of 161 days.

Miller said that the Court of Appeal neither overruled the High Court nor did it challenge it.

He said that his clients have always been willing to have the matter arbitrated.



President Moi speaks to the chairman of Pharmaceutical Society of Kenya, Dr Wanjau Mbuthia, soon after launching National Pharmacy awareness month at Intercontinental Hotel yesterday (Picture by JOHN MUCHENE)

# Moi, US officials in talks

By PPS

PRESIDENT Daniel arap Moi yesterday held discussions with the United States Assistant Secretary of State for African affairs Walter Kansteiner who paid him a courtesy call at State House, Nairobi.

Kansteiner was accompanied by the American Ambassador to Kenya Johnnie Carson. Also present were minister for foreign affairs and international cooperation Chris Obure and the permanent secretary David Andere.

At another function President Moi bade farewell to the outgoing ambassador of Chile to Kenya Jaime Jana Saenz. President Moi noted that the relations between Kenya and Chile were cordial.

Moi also bade farewell to the outgoing Sudanese ambassador to Kenya Farouk Ali Mohammed. The President said the peace negotiations on the Southern Sudan conflict should be speeded up under IGAD.

He noted that unless peace was realized in Southern Sudan, the people would continue to suffer and no development would take place. Present were Obure, Andere and chief of protocol Rebecca Nabutola.

# Fraudsters jailed for five years

By ERIC MUTISO  
TWO relatives of Asian origin were yesterday sentenced to five years imprisonment after they pleaded guilty to charges of defrauding a local company maize worth over Shs 6.9 million.

Sadeep Kumar Patel and Simit Kumar Patel, who appeared before Makadara principal magistrate Charles Rinjeu, pleaded guilty to the charges of defrauding Unga Group, a local company based in Nairobi.

Prosecution had earlier told the court that the accused had advanced to the premises of Unga Group in industrial area and issued a false release order to the departure officer in charge and later made away with 6000 bags of maize without any trace.

Sadeep and Simit were charged that on May 22, this year at the National Cereals and Produce Board silos in Industrial Area in Nairobi, jointly with intent to defraud, they obtained from Willy Kipkoeh 6000 bags of dried maize which was valued at Shs 6.9 million.

The two obtained this by falsely pretending to be servants of Mitesh Mahendra Patel and that they had been sent to Kipkoeh to acquire the goods.

In the second count they were charged that on diverse dates between May 12 and May 21, this year, with intent to defraud they made a release order document purportedly addressed by Kabansora Millers Limited.

# Shs 600 million vehicles lying in police stations'

By WILFRED MUCHIRE  
Hundreds of stolen vehicles are lying in various police stations across the country, an anti-car theft firm, Alpha Dot Security Limited, disclosed yesterday.

The vehicles, estimated to be worth about Shs 600 million, are part of the thousands of others that insurance companies spend about Sh3 billion annually to compensate their owners, the firm's operation manager Ken Kamau said.

Speaking to journalists in Nyeri when he handed over a stolen car to the owner at Karatina police station, Kamau said most of such vehicles are vandalized and left almost like a shell.

In the presence of Central provincial police boss (PPO) Enoch Cheserek, Kamau handed over the vehicles, a Daihatsu Charade registration number KAG 476R, to Kenneth Mudoga Shikuku. Shikuku said he was car-jacked at Ongata Rongai on May 5, 2001 before being dumped near Kiambu town in the night.

The PPO noted that most of the stolen vehicles end up being

auctioned if the owners are not identified within six months.

Using the new Alpha Dot vehicle security marking system, Kamau was able to trace the vehicle at Karatina police station two weeks ago. However, the vehicle had some parts vandalized.

The new car-tracking firm was launched last July and started operations immediately. So far, the firm has recovered several vehicles whose owners have subscribed to it.

Kamau said he had recovered about 40 vehicles in various police stations in the country including Nyeri and Mombasa.

The marking of the vehicles comprises over 300 owner identification markings installed throughout the vehicle. The markings are installed on the windows, lights, engine parts, wheels, chassis, passenger compartments and the boot, Kamau noted. The current vehicle identification markings are easy to change, making it simple for a criminal to steal, use and sell a vehicle.



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