



REPUBLIC OF KENYA



Ochieng t/a Mecko Enterprises v PS Ministry of Education & 2 others (Miscellaneous Case 029 of 2021) [2023] KEHC 302 (KLR) (Commercial and Tax) (27 January 2023) (Ruling)

Neutral citation: [2023] KEHC 302 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS CASE 029 OF 2021
A MABEYA, J
JANUARY 27, 2023

BETWEEN

MESHACK OCHIENG T/A MECKO ENTERPRISES APPLICANT

AND

PS MINISTRY OF EDUCATION 1ST RESPONDENT

ATTORNEY GENERAL 2ND RESPONDENT

CS NATIONAL TREASURY 3RD RESPONDENT

RULING

1. Beforecourt is an application dated October 11, 2022. It was brought under order 35 rule 1 (5) (2) and order 51 of the *Civil Procedure*.
2. The application sought orders that case numbers 445 of 2013, 029 of 2020 and E16 of 2018 be consolidated.
3. The application was supported by the supporting affidavit sworn by Meshak Ochieng on 11/10/2022.
4. The 2nd respondent opposed the application vide the grounds of opposition dated October 17, 2022 on grounds that the application was filed without leave.
5. The applicant filed submissions dated October 24, 2022.
6. I wish to deal with the issue of the respondent's objection that the application was made without leave. The applicant submitted and demonstrated that on 14/4/2019, Muigai J granted leave to the applicant to make the present application. In this regard, the court agrees with the applicant that the said objection has no basis and should be rejected.



7. That paves the way for the court to consider the application on merit.
8. This court has considered the pleadings and submissions before it. The applicant sought to consolidate this matter with 'case numbers 445 of 2013, 167 of 2018 and E16 of 2018'. The court notes that the pleadings for the said cases were not placed before court.
9. Further, the applicant did not demonstrate by way of affidavit evidence that the cases are related, the parties are the same or that similar issues of law and fact will arise in the subject cases for convenient determination of the matters. All that the applicant did was to make statements about what various courts have in the past ordered. It is not clear what the applicant intends to achieve with the intended consolidation.
10. In any event the court notes that in one of those matters to wit, Misc Civ Appl No 167 of 2018, the matter was concluded vide the ruling of 14/4/2018. In that matter, Muigai J granted the applicant leave to file the present proceedings. That matter in my view became concluded and there is nothing more that was left that can be prosecuted vide the current proceedings.
11. In the circumstances, this court is unable to grant the orders sought. Consequently, the application is without merit and is dismissed. It follows that, the leave granted by Muigai J on 14/4/2019 is spent. I make no order as to costs.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF JANUARY, 2023.

A. MABEYA, FCI Arb

JUDGE

