



REPUBLIC OF KENYA



**Mboga v Republic (Revision Case E466 of 2022)
[2023] KEHC 3418 (KLR) (27 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3418 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE E466 OF 2022
HM NYAGA, J
APRIL 27, 2023**

BETWEEN

JAMES SUNDA MBOGA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant James Sunda Mboga was charged with obtaining money by false pretence contrary to section 313 of the *Penal Code*.
2. The particulars were that on July 24, 2005 at Kongoi Trading Centre in Kuresoi North sub- county within Nakuru county with intent to defraud obtained from Josephine Kerubo Nyokwoyo the sum of Kshs 14,000/= by falsely pretending that he was capable of selling her a plot No 5/816 a fact he knew was false.
3. He was convicted and sentenced to serve two (2) years imprisonment on September 7, 2022.
4. The applicant never appealed against either the conviction or sentence meted. This matter has been placed for revision before this court.
5. The sentence review report by Julia Isomi filed on March 16, 2023 indicates the applicant is married with 5 issues who depend on him. He is a class 5 drop out and his family and community is ready to receive him back. He takes responsibility for the commission of the offence and he is ready and willing to serve a non-custodial sentence.
6. Having considered the Probation Officer's sentence review report, and the fact that the applicant is a first time offender this court should exercise its revisionary powers and substitute the remaining part of his sentence with a Community Service Order to be served at Mkulima Chief's office under the direct supervision and direction of the said chief.



DATED, SIGNED & DELIVERED AT NAKURU THIS 27TH APRIL, 2023.

H.M. NYAGA

JUDGE

In the presence of:

C/A Jeniffer

Ms Murunga for state

Applicant present

