



REPUBLIC OF KENYA



KENYA LAW
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**Karumbi & another v Matu (Civil Appeal 540 of 2014)
[2023] KEHC 20723 (KLR) (Civ) (25 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20723 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL 540 OF 2014

JN MULWA, J

JULY 25, 2023

BETWEEN

PAUL WAWERU KARUMBI 1ST APPELLANT

GAKUUA RICHARD 2ND APPELLANT

AND

PETER GITIA MATU RESPONDENT

RULING

1. By an application dated 5/6/2023, the Applicant, Peter Gitia Matu, the Respondent in the now dismissed Appeal by an Order of the Court vide a Ruling dated 6/10/2022 (stated as 8/12/2022) seeks a review and or variation of the Orders on Costs; upon grounds that being the successful party in the application for dismissal of the Appeal dated 21/6/2021 the Order of costs ought to have been to the Respondents in this application, and Appellants in the Appeal.
2. It is another ground that there are two contradictory orders on costs on the matter of costs; and therefore an error on the face of the record in respect thereof.
3. The application is based on the provisions of Orders 45 – 1,2 &3 and Order 57 Rule 1 of the [Civil Procedure Rules](#).
Despite being properly served with the application and hearing date, the Respondents/Appellants have failed to file any responses to the application.
4. I have considered the Orders on Costs in the Ruling dated 6/10/2022, but dated as having been delivered on the 8/10/2022, 8/12/2022 interchangeably in the application.



I agree with the Applicant that the Costs of the application dismissing the Appeal ought to have been in favour of the Respondent in the Appeal; who was the Applicant and who moved the Court for the dismissal of the Appeal.

5. Section 99 of the *Civil Procedure Act* empowers the Court to amend Clerical or arithmetical mistakes in Judgments, Decrees or Orders, or errors arising therein from accidental slip or omission as to Costs or otherwise as it may think fit.

Further under Order 45 Rules 2 (1) and (2) the Court to review its orders upon discovery of existence of a clerical or arithmetical mistake or errors apparent on the face of the record, by the Judge who made the Orders to be reviewed.

6. Upon being satisfied that indeed there exists an apparent mistake or error on the Court's Ruling dated 6/10/2022, I now proceed to correct the errors as follows:

At paragraph 25 (3) Amended to read as follows:

That the Appellants are condemned to Pay Costs of the Appeal and the application dated 21/6/2021.

Orders accordingly.

DELIVERED DATED AND SIGNED AT NAIROBI THIS 25TH DAY OF JULY, 2023.

JANET MULWA

JUDGE.

