



**Kigia v Meru Teachers House Ltd (Miscellaneous Civil Case  
E072 of 2023) [2023] KEHC 26239 (KLR) (30 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26239 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
MISCELLANEOUS CIVIL CASE E072 OF 2023  
TW CHERERE, J  
NOVEMBER 30, 2023**

**BETWEEN**

**MICHAEL KUNGU KIGIA ..... APPLICANT**

**AND**

**MERU TEACHERS HOUSE LTD ..... RESPONDENT**

**RULING**

**Brief Background**

1. By a ruling dated 30<sup>th</sup> June, 2023, Michael Kungu Kigia's (Applicant) application for review filed in Meru CMCC MISC. Appl. 57 of 2015 was dismissed.
2. By notice of motion dated and filed on 21<sup>st</sup> July, 2023 supported by an affidavit sworn Applicant on 21<sup>st</sup>, July, 2023, the court is urged to stay the orders issued in Meru CMCC MISC. APPL. 57 OF 2015 and to issue conservatory orders in respect of consent orders made by Oguk J (as he then was) in High Court Civil Case No. 180 of 1991 and by Otieno J in High Court Civil Appeal No. 126 of 2009 where Applicant's appeal was dismissed.
3. Respondent opposed the application by way of a preliminary objection filed on 04<sup>th</sup> November, 2023 where it argued the court to find that the application is incompetent and strike it out,
4. I have considered the application in the light of the supporting affidavit, the hours of opposition, the preliminary objection and the submission by both parties.
5. Order 45, rule 3 grants the court the powers to dismiss an application for review where it appears to the court that there is not sufficient ground for a review. The learned trial magistrate therefore acted lawfully in dismissing the Applicant's application for review. As to whether the dismissal was merited is a matter to be settled on appeal as provided for under Order 43 rule 1 (x) and not by an application to set aside as the Applicant herein seeks.



6. Concerning the orders issued by Oguk J (as he then was) in High Court Civil Case No. 180 Of 1991 and by Otieno J in High Court Civil Appeal No. 126 Of 2009 which Applicant appears to be aggrieved with, the right thing to do is to challenge the determination of the court in the proper forum, instead of improperly and impermissibly re-litigating on matters that have already been determined.
7. In the end, I find that the notice of motion dated and filed on 21<sup>st</sup> July, 2023 is without merit and it is dismissed with costs to the Respondent and its ordered that the file be closed.

**DATED AT MERU THIS 30<sup>TH</sup> DAY OF NOVEMBER 2023**

**WAMAE. T. CHERERE**

**JUDGE**

Appearances

For Applicant - N/A

For Respondent - Mr. Mageria for Nyamu Nyaga & Co. Advocates

