Kiilu v Jiangxi Water & Hydropower Construction Kenya Limited (Environment & Land Case 34 of 2018) [2023] KEELC 16800 (KLR) (12 April 2023) (Ruling)

Neutral citation: [2023] KEELC 16800 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ENVIRONMENT & LAND CASE 34 OF 2018

CK NZILI, J

APRIL 12, 2023

BETWEEN

RHODA S. KIILU ..... APPLICANT

AND

JIANGXI WATER & HYDROPOWER CONSTRUCTION KENYA LIMITED ..... RESPONDENT

RULING

1. Before this court is a notice of motion dated 15.3.2023 where the applicant/decree holder is asking the court to review its orders dated 13.7.2022 and order for the release of Kshs.50 million out of Kshs.70 million (the decretal sum), to cater for her medical expenses, care and maintenance. The application is supported by the grounds on its face and a supporting affidavit sworn by Rhoda S. Kiilu on 15.3.2023.

2. In the said grounds, it was averred that the judgment in this matter was delivered on 9.3.2022 for a sum of Kshs.144, 615,000/=, with costs and interests. Conditional orders of stay of execution were granted on 13.7.2022 for Kshs.70,000,000/= to be deposited with the Deputy Registrar pending the hearing and determination of an intended appeal which has not been filed 12 months down the line, despite certified proceedings and judgment being ready. The applicant averred that the in action by the respondent who has been enjoying the stay orders while she continues to be denied the enjoyment of her fruits of judgment was contrary to the ends of justice, especially due to her advanced age of 80 years and her ailment. She averred that she has been suffering from cancer, type 2 diabetes, primary hypertension, stroke and other ailments and was currently attending treatment at Metropolitan Hospital Nairobi. The applicant, therefore, urged the court to find it is only just, fair and in the interest of substantive justice under Sections 1A and 1B of the *Civil Procedure Act*, Article 159 (2) of *the Constitution*, and Sections 3 & 19 of the *Environment and Land Court Act*, that the court finds there is sufficient cause to grant the orders sought.

3. In the supporting affidavit, the applicant repeated the grounds afore stated saying that justice delayed was justice denied. Further, the applicant averred that her medical bills continue to accrue every month, the cost of medicines remain high and her children whom she depends on have run out of funds to cater for the same, due to the harsh economic times prevailing in the country. She attached copies of the medical receipts and prescription as RSK "1 (a) and (b)".

4. Additionally, the applicant averred that the doctor who is attending to her has recommended for overseas specialized treatment and further care in Healthcare Global Hospital Bangalore, India. The applicant has estimated that her medical care both in Nairobi and in India at Kshs.15 million as per the attached medical report by Doctor Geoffrey Mugala A/a, marked as annexure RSK "2". Moreover, the applicant averred that she would also require an escort to India whose air tickets and accommodation is likely to be Kshs.4 million for a period of 8 weeks. Given the foregoing, the applicant averred that it has become absolutely necessary and urgent to move to this court to access the funds since she is unable to raise the funds.

5. As security, the applicant averred that the suit lands are worth over and above the figure requested, in the event that the respondent, who is yet to file an appeal, was successful and thus no prejudice would be occasioned to it.

6. The notice of motion is opposed by a replying affidavit of Yuan Jinggui, the respondent's legal affairs manager, sworn on 22.3.2023. It is the respondent's contention that after the stay orders were granted, Kshs.70 million was promptly deposited as ordered and as required by law. Subsequently, they wrote to the Deputy Registrar on 10.3.2022, requesting for typed proceedings and judgment to enable it file the appeal. The letter was followed up by two other letters dated 3.8.2022 and 25.1.2023 marked as annexure YJ "2 & 3". The respondent averred that no response had been received on the status of the typed proceedings; hence it was not true that it has failed to file the record of appeal, since the letters aforementioned suspended the running of time within which to file an appeal.

7. The respondent averred that upon the filing of the letters above mentioned, it was upon the registry staff to comply and present the same to court for certification. Further, that the Deputy Registrar ought to have informed them of the conclusion on the typed proceedings and the court fees payable thereon.

8. It was averred that the registry was yet to communicate whether the proceedings had been typed, certified and were ready for collection to enable them compile and file the requisite appeal. The respondent also averred that counsel on record for the applicant was aware of the request as per a letter marked as annexure YJ "4". Therefore, the respondent averred that any review of the stay orders would not only be unfair but unjust, since the alleged delay was not attributable to it.

9. Further, the respondent averred that the applicant has not demonstrated the requisite grounds for review and in absence of meeting such standards; it would be unjust and prejudicial to them since justice must be seen to be done on both parties. Additionally, the respondent averred that it should not be punished for reasons beyond its control, more so since ill health and the resultant medical bills do not amount to sufficient grounds for review, which review would impact on the appeal, in essence seeking to challenge the award from when the sums of money were deposited in court in compliance with stay orders.

10. With leave of court, the applicant filed written submissions dated 22.3.2023 which were orally highlighted, while the respondent's oral submissions were made by Mr. Chege Kirundi advocate, on 23.3.2023.

11. The applicant submitted that Order 45 of the Civil Procedure Rules, grants this court the jurisdiction and the scope to review its orders for inter-alia, any sufficient reason, which has been demonstrated in

the application and the supporting affidavit here in. Reliance was placed on Pancras T. Swai vs Kenya Brewers Ltd (2014) eKLR which cited with approval Shanzu Investment Ltd vs Commissioner of Lands (1993) eKLR and Wangechi Kimata & another vs Charan Singh (1985) eKLR.

12. While highlighting his written submissions, Mr. Muthomi, learned counsel for the applicant reiterated that the health of the applicant was at stake and being a decree holder, and the respondent as her debtor, she was entitled to enjoy the fruits of her judgment. In this instance, the learned counsel stressed that his client was seeking to access only 1/3 of the decretal sum. Regarding the replying affidavit, learned counsel for the applicant submitted that the respondent was merely dangling a carrot to the applicant to access the suit lands, which request was res-judicata in view of this court's earlier ruling.

13. Mr. Chege Kirundi, learned counsel for the respondent relied entirely on the replying affidavit. In addition, he submitted that the application before the court fell below the threshold on review since it does not disclose why this evidence was being introduced now, yet the applicant was aware of the disease over a year ago when the court granted stay orders. The learned counsel further submitted that review based on new evidence suffices where the evidence is discovered after the decision was made. Similarly, he submitted that the applicant does not say that the disease she is suffering from did not exist last year which, had she disclosed at the time, the court would have taken it into account.

14. In addition, counsel for the respondent submitted that the applicant was coming late on that issue since the law says that the new evidence to be considered should be one which could not have been discovered after exercising due diligence. For this case, learned counsel submitted that the disease appears advanced and therefore since it was known then, nothing qualifies such a ground as falling for review.

15. Mr Chege Kirundi submitted that at this juncture, it was not possible for the respondent to state how far the trespass had occurred, which could only be ascertained if the applicant and the court had allowed access to the suit land.

16. The learned counsel further submitted that while sympathizing with the applicant, 1/3 of the decretal sum was a lot to be applied for sickness more so having attached correspondence from his client seeking for typed proceedings. Further, he had his court clerk physically attend court to check on the progress in order to expedite the appeal.

17. Additionally, learned counsel submitted that the respondent would have lodged the appeal on time had they received the proceedings and therefore this matter should not be re-opened without submitting any new evidence.

18. Moreover, counsel denied that his client was dangling any carrot to the applicant, given that she was the one who denied an access to the suit lands for the collection of the evidence as was sought, which in essence was the basis of the appeal.

19. Additionally and without prejudice to the foregoing, counsel for the respondent submitted that his client was open to consider, this request only if it was allowed to access the suit land, since the deposit made in court alone was enough good will and sacrifice of its operational costs for the sake of justice to be seen and to be done. Learned counsel also submitted that the application was unmerited more so, where there was a window to be exploited by the applicant. Counsel further submitted that the law has to be applied without sympathy.

20. In a rejoinder, learned counsel for the applicant urged the court not to be swayed by the antecedents of the respondent who had purported to access the suit land through violence which issue, in any event, was now res- judicata and that the respondent had all the time that they were on the suit lands.

21. The court has carefully gone through the application, the replying affidavit, oral and written submissions by the parties. At issue is whether the applicant has made a case based on the ground of sufficient reason for this court to review the stay orders made, to the extent of releasing part of the deposited decretal amount to the decree holder on account of sickness, medical expenses, care and maintenance.

22. Section 80 of the *Civil Procedure Act* provides that, a party who is aggrieved by an order or decree which is not subject to an appeal may apply for review of the same to the court which passed the decree or made the order and the court may make such orders thereon as it thinks fit.

23. Order 45 of the Civil Procedure Rules provides that an application for review of a decree or order of a court, upon some ground other than the discovery of such new and important matters or evidence or error or mistake or for any other sufficient reason shall be made only to the judge who passed the decree or made the order sought to be reviewed.

24. What amounts to sufficient reason has been a subject in various case laws. In Pancras T. Swai v Kenya Breweries (supra), the court cited with approval Wangechi Kimata & another v Charan Singh (supra), that any other sufficient reason need not be analogous with the other grounds set out in the rule because such restriction would be a clog to the unfettered right given under Section 80 of the *Civil Procedure Act*.

25. In the case of Ndungu Njau vs National Bank of Kenya Ltd [2008] eKLR, the court cited with approval Kimata v Wakibiru [1986] eKLR, the words of Nyarangi J.A that the word any other sufficient reasons have to be construed ejus generis or reasons a kin to those specified immediately previously in the order. In Shanzu Investment Ltd v Commissioner for Land Civil Appeal No. 100 of 1973, the court held that any other ground set out in the rule did not in themselves form a genus or class of things which the third general head could be said to be analogies. Similarly, in the case of Regional Institute of Business Management v Lucas Ondong Otieno [2020] eKLR, the court was called upon to review an order to substitute the security.

26. The reasons given were that the applicant had suffered hardship and financial constraints due to measures taken by the government to combat Covid 19 pandemic. The court took the view that he who alleges must prove and therefore the applicant had to avail evidence to demonstrate that it was so adversely affected financially to an extent that it was incapable of complying with the court order. The court observed that the applicant had failed to avail his financial status at the time it filed the application to substantiate the claim of incapacity to raise Kshs.532, 000/= as security, hence no sufficient cause existed. Additionally, the court said that justice was a double-edged sword cutting both ways. Therefore, the court said that in as much as the applicant was entitled to have his right of appeal safe guarded by having the substratum of its appeal preserved, the respondent was also equally entitled to enjoy the fruits of his judgment and to access them without undue hardship. The court weighed the parties competing interests and dismissed the application.

27. In the case of Okumu Constance & another v Annah Moraa [2020] eKLR, the court cited with approval Arun C Sharma v Ashana Raikundalia t/a Raikundalia & Co. Advocates & 2 others [2014] eKLR, that the purpose of security was not to punish a judgment debtor since in a civil suit, a judgment was like a debt and that security serves for the due performance of such decree. In the case of the Official Receiver and Liquidator v Freight Forwarders (K) Ltd [2000] eKLR, the lower court had declined to allow for an adjournment and instead ordered some Kshs.621,739.50/= plus interests to be paid out to the applicant. The reasons given for the review of the order was out of difficulties in complying with the court order. The court dismissed the application for review leading to the appeal at the Court of Appeal. The court found that there were difficulties in complying with the court order to an extent of

the official receiver being at risk of being in contempt of court, which in the court's view fell under the words "any other sufficient reason" to warrant a review of the previous orders.

28. In Ferdinard Ndung'u Waititu & 4 others v AG & others [2016] eKLR, the court held that a case for review and indeed the vacation of a courts earlier orders would be deemed to have been made out when an aggrieved party presented sufficient reasons for such review or variation. The court cited with approval Wanjiru Gikonyo & others v National Assembly and 4 others [2016] eKLR, where the court held that it was practically impossible to itemize what would be sufficient reason under the court's residual or inherent powers and that the exceptional instances when obvious injustice would be worked by strict adherence to the terms of the order or decree as originally passed were copious.

29. The court went on to say that the respondents and their followers had acted in bad faith and abused the court orders in question hence they were not entitled to benefit from the said order. Further, the court saw no prejudice was likely to be suffered by the applicant if the said orders were vacated since there existed proper mechanisms to address the grievance outside court. Additionally, the court found that the respondents had taken advantage of the court order and abused the court process.

30. In the case of Elias Noel v Ephraim Dembete Kirogili [2018] eKLR, the court took the view that it was well settled principle of law that a party was not entitled to seek a review of a judgment merely for the purpose of a rehearing and a fresh decision of the case, but has to bring to the attention of the court significant injustice flowing from the juridical process. The court cited with approval Grace Akinyi v Gladys Kemunto Obiri & another [2016] eKLR, that the discretion to review based on sufficient reasons has to be exercised judiciously and not capriciously.

31. As to whether sickness or medical treatment amounts to sufficient reasons, in Peter Wanyama Ojiambo & another v Technical University of Kenya & 2 others [2020] eKLR, the court said that since it was over 60 days after delivery of judgment and that there was no indication that a memorandum of appeal had been filed, or leave sought to lodge the appeal out of time for the extension of time for lodging the appeal, the inference was that there was a clear intention to delay the applicant from benefitting from the fruits of his judgment. The court cited with approval African Commuter Services Ltd v Kenya Civil Aviation Authority and 2 others [2014] eKLR, where the court said that an application pending in the Court of Appeal could not be a bar to the decree holder as a successful litigant from seeking to enforce its right to enjoy the fruits of its litigation.

32. Further, the court cited with approval Mercedes Sanchez Rau Tussel vs Samken Limited & 2 others [2002] eKLR, where the court held that it would be wrong to hold as a principle that once there was a threatened appeal, no part of a judgment was executable until after the determination of the review or appeal, otherwise such a view would permit any person desirous of jamming the justice process, or merely trying to postpone the pay day, to simply lodge a notice of appeal or to file an appeal itself or to pretend to do anything and thereby deny a party the whole judgment.

33. In the Peter Ojiambo case (supra), the court held that a decree which could ease the applicant's financial and medical burden was enough justification for the execution of the decree before judgment, more so when there was lack of a demonstrated intention by the respondent to file the appeal. The court proceeded to release the money pending the taxation and ordered the rest of the decretal sum to await either taxation, hearing and or the determination of the application for stay, whichever was earlier.

34. In the case of Mohamed Noor v CMC Aviation Ltd [2015] eKLR, at issue was a request to release monies deposited in court, as a condition for stay pending appeal at the Court of Appeal. The court proceeded to release the funds since the appeal had been determined and the court had no reason for continuing to hold the funds. In Belgo Holdings Ltd v Robert Kotch Otachi & another [2016] eKLR, at issue was whether a party could competently apply for a discharge of an order for stay given to the

unsuccessful party. The applicant had relied on Halal & another v Thorton & Turpin [1963] Ltd [1990] KLR 365 on the proposition that where no appeal was filed the court had no jurisdiction to entertain an application for stay. The court held that where the appeal would not be rendered nugatory by the absence of an order for stay, the court should not grant a stay especially if it is shown to the satisfaction of the court that an injustice will be caused to the other party by a grant of such an order for stay.

35. The court went on to say that the applicant had demonstrated that no reasonable argument could be made to support the stay order and that the greater hardship would have been suffered by maintaining the order for stay than declining it, given the overriding objective to facilitate just, expeditious, proportionate and affordable resolution of an appeal and to do justice to all under Article 159 of *the Constitution*.

36. As to the formula to follow in order to reach the sum due to the applicant, in the case of Amoke Otieno Pascal v Melvin Anyango Owuor [2022] eKLR, the court in an application for stay balanced the rights of the parties and granted a stay by releasing 30% of the decretal sum to the decree holder and ordering the appellant to provide a bank guarantee as security for the balance.

37. Applying the foregoing binding case law and principles to this case, the respondent after being aggrieved by the ruling delivered on 23.2.2022, filed a notice of appeal dated 25.2.2022 and sought for copies of certified ruling, copy of the order and typed proceedings by a letter dated 23.2. 2022. Thereafter the court rendered its judgment on 9.3.2022.The respondent filed another notice of appeal dated 14.3.2022 against the said judgment. Vide a letter dated 10.3.2022, the respondent once more requested for certified copies of the judgment, the decree and typed proceedings. It proceeded to make payments of Kshs.1, 450/=, on 14.3.2022 vide a receipt dated the same day. Thereafter the proceedings were typed, proofread and corrected as at 22.12.2022, going by the tracing register. The file was thereafter returned to the registry where it has been lying since there was nothing pending except the collection of copies by the respondent. A certified copy was already done by the Deputy Registrar as at 7.3.2023. All this was brought to the attention of counsel for the respondent during the hearing of this application, who reportedly said that he may have been misled by his court clerk.

38. Looking at annexure marked YG "4", it is obvious that the respondent's counsel on record was misleading his client by the letter dated 25.1.2023 that the delay was on the part of the court. Strangely in the said letter, the respondent was being asked to pay for instructions fees to lodge and file the appeal close to a year and almost over seven months after the stay orders had been issued. Therefore, it cannot be true that the delay has been on the court registry as alleged by the respondent. On the contrary, both the ruling and the judgment by this court have been available at the Kenya Law website as well as the court file awaiting collection by the respondent since all the aforementioned letters by the respondent had been acted upon.

39. Regarding the annexure dated 4.8.2022, there is no indication if the respondent ever sent a follow up email soon thereafter and or attended the court registry to collect the same. From the court record and the established typing procedures, once the respondent placed their request the file movement register indicates that the file went for typing on 11.11.2022, 70 pages were typed as at 28.11.2022. Proof reading was done on 21.12.2022. Corrections were done on 22.12.2022 and the final copy of the proceedings was ready by 22.12.2022. Further to this, on 14.3.2022 one Karanja of Kirundi and Co. Advocates collected the certified judgment and a decree as requested by the letter dated 10.3.2022. So, it cannot be true as alleged in the letter dated 3.8.2022 that the respondent had not received a certified copy of the judgment.

40. The respondent has argued that if the orders sought are reviewed, the intended appeal would be rendered nugatory and it would be prejudiced since one of the grounds of appeal relates to the award. At this stage, it is important to note that the respondent has not attached the intended draft memorandum of appeal. In this application, the applicant is saying that there is no pending appeal by way of a memorandum of appeal hence no justification to have the stay orders subsist.

41. From the court's record, it is obvious that after the stay orders were granted, the respondent did very little if any, to fast track the filing of the appeal. The court record is clear that after the payments for the proceedings were made the respondent did not visit the court registry to establish the progress or make follow ups including by way of emails. It cannot be true therefore as averred in the replying affidavit that the respondent was awaiting for a notification from the court registry to know how much was required for the proceedings since a deposit had already been made. It would be asking for too much from the court to go out of its way to call all parties to suits to come and collect proceedings once they are typed. The duty was on the respondent to collect the proceedings and file the appeal. There is therefore no basis to lay any blame squarely on the court's registry for the indolence or inaction by the respondent.

42. Having found that the respondent has not demonstrated how it will be prejudiced if the orders are reviewed. The next issue is whether the sufficient reasons have been given to entitle the applicant the reliefs sought. The applicant has attached copies of medical reports. The medical history of the applicant prior to July 2021 is missing. Similarly, the financial status and or means of the applicant are missing for her to say that her finances have been depleted and that the only recourse was the decretal amount. Whereas no rival medical report has been availed by the respondent to challenge the nature of the illnesses and the expected cost by way of referral letters and acknowledgment of the same by the proposed hospital in Bangalore, still I find the reasons genuine. The court would however have expected the applicant to lay a basis by way of breakdown on how the sum of Kshs.50, 000,000/= arises instead of generalities.

43. Be that as it may, in the replying affidavit, the respondent has not cast any doubts that if the applicant was allowed to access the sums, that she may not be in a capacity to refund should the appeal succeed. See B.T Limited vs MNN [2000] eKLR. Further, counsel for the respondent has however submitted that 1/3 of the decretal sum was a colossal amount. In the case of Kenya Shell Ltd v Benjamin Karugu Kibiru & another [1982-88] 1 KAR, the court said that a party who was a successful litigant could not be denied the fruits of his judgment and thereby locked up from accessing the fund which he was entitled to by simply stating that it was a lot of money. In Thugge v KCB Ltd [1990] eKLR, the applicant had offered his properties as security to show that he was able to make restitution in the event that the defendant's appeal was to succeed.

44. In this application, the applicant has averred that the suit parcels of land are enough and valuable security should the appeal succeed. Copies of the title deed including valuation reports were never attached to the supporting affidavit to support these assertions. That notwithstanding the respondent has not raised any complaint that the suit premises are valueless and or not to commensurate the sum requested.

45. In National Industrial Credit Bank Ltd v Aquinas Francis Wasike & another [2006] eKLR, the court said that once an applicant expresses a reasonable fear that the respondent would not be able to pay back the decretal amount, the evidential burden shifts to the respondent to show what resources he has since that is a matter peculiarly within his knowledge. This was the same position taken in Swapan Sadhan Bose vs Ketan Surendra Somaia & 3 others [2006] eKLR, where the court said it would be

unreasonable for an applicant to be expected to know in detail the resources owned by the respondent or lack of them.

46. In this suit, the respondent is already aware that the applicant is the true owner of the suit lands. Unlike in the cited case law above, it is within the knowledge of the respondent the extent, nature and status of the applicant's properties. To that end therefore, the fear or apprehension expressed by the respondent has no basis in law or fact.

47. As to whether the applicant has made a basis for the release of Kshs.50 million, it is trite law that he who alleges must prove. In this situation the applicant has attached annexure marked RSK "1 (a) & (b)" which are medicine receipts and prescriptions for the period between 2021-2022, indicating that the applicant is spending at least Kshs.109, 522/= per month. Annexure marked RSK "2" is a medical report by Dr. Geoffrey Muganda A/a. It merely estimates the cost without specific particulars, details, time frames and or a breakdown for the three major ailments the applicant is suffering from, which obviously fall under different medical doctors. Similarly, the maker of the documents is a medical physician. Obviously, one would have expected potential bills from the rest of the specialist medical doctors attending to the applicant including their prognosis, previous, current and or future expenses. See Kenya Bus Service Ltd v Gituma 1 E.A 91.

48. In the case of Ndiritu Muchemi Michael & 2 others v Ashbell Macharia Wachira & another [2021] eKLR, the applicant had sought for the release of some funds deposited to forestall an execution, in order access emergency medical treatment in India. The court held that to avoid the claimant from suffering any loss and for purposes of fairness, the funds be released with an indemnity and or discharge duly signed by the applicant.

49. In this application, the respondent has not objected to the medical reports, the medical bills and the expected expenses as presented by the applicant on the basis of either being erroneous, astronomical, exaggerated or ridiculous.

50. Article 43(1) of *the Constitution* provides that every person has the right to the highest attainable standard of health which includes the right to health care services. Sub article (2) thereof provides that a person shall not be denied emergency medical treatment. The state is mandated under this Article to provide appropriate social security to persons unable to support themselves.

51. Additionally, Article 57 of *the Constitution* guarantees the rights of the older members of the society by placing the duty on the state to take measures to ensure that they live in dignity respect and free from their family and the state.

52. The applicant has implored this court to look into her health, the medical circumstances and alleviate her condition by facilitating the access to the fruits of her judgment so as to access the right to health and medicare.

53. In the case of Josephat Musila Mutua & 9 others vs AG & 3 others (2018) eKLR, the court held that he Constitution prohibits all forms of discrimination on ground set out under Article 41 (1) of *the Constitution* by subjecting one to a different treatment because of his age.

S4. Tht"t'fcll't', t" d t\' th npplk ,nt n, <' '1' t• t, lttHh• whh'h

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55. In my considert'd vit'w tht'l't'fot't', unldt'nt , ..o on os presented by the applicant in thh npplicntion tronsrend not only the enjoyment of fn1its of her judgrnent. but nlso hing on this court's 1uandnte- to uphold, prott"ct nnd enforct' her constitutional rights as an oldt'"r n1en1ber of the society.

55. The upshot is that I find the npplicarion 1nelited. review the stay orders to the e.'ttent that the applicant through her advocates on record be allowed to forth\tith access Kshs, 50 million out of the sum deposited in court. The balance of Kshs. 20 million shall be held by the court as security for a period of one month only on condition that the respondent files both a formal appeal and also furnishes a bank security for the balance of the rest of the decretal sum within 7 days from the date hereof. In default of uny of th<: above conditions, the balance to be rclca Re d to the cJccr,!e holder who shall be at liberty to execute for the remaining balance of the decretaJ amount. Costn to the applicant.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT

THIS 12TH DAY OF APRIL, 2023

In presence of: Respondent

C/ A: John Paul

Mr. MuthomiAdvocate for the Applicant

Miss. Mibei for Kirundi Advocate for the Respondent

HON. C.K. NZILI

ELC JUDGE