



**Ritz v Standard Media Group Limited (Civil Suit 262 of 2016)  
[2022] KEHC 15921 (KLR) (Civ) (29 November 2022) (Ruling)**

Neutral citation: [2022] KEHC 15921 (KLR)

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

**CIVIL  
CIVIL SUIT 262 OF 2016**

**JK SERGON, J  
NOVEMBER 29, 2022**

**BETWEEN**

**MARCO RITZ ..... PLAINTIFF**

**AND**

**STANDARD MEDIA GROUP LIMITED ..... DEFENDANT**

**RULING**

1. This ruling is precipitated by the notice of motion dated October 14, 2022 filed by the plaintiff/ applicant and supported by the grounds set out on its face and the facts stated in the affidavit sworn by advocate Christopher Waiyaki. The applicant sought for the orders hereunder:
  - i. Spent.
  - ii. That this honourable court be pleased to enlarge the timelines within which the applicant is to prosecute the matter herein beyond the October 28, 2022 as given by honourable justice Serгон in his ruling of July 1, 2022.
  - iii. That this honourable court be pleased to grant the plaintiff leave to testify in the matter virtually through video conference and with the help of a sign language interpreter.
  - iv. That cost of the application be in the cause.
2. The defendant/respondent put in the replying affidavit sworn by Millicent Ng’etich on October 21, 2022 to oppose the Motion, to which Christopher Waiyaki rejoined with a supplementary affidavit he swore on October 24, 2022.
3. At the interparties hearing of the motion, the parties’ advocates relied on the averments made in the respective affidavits.



4. I have therefore considered the grounds presented on the face of the motion; and the facts deponed in the affidavits supporting and resisting the motion.
5. Before I consider the merits thereof, I note that the respondent through its deponent raised issue in the replying affidavit regarding the competency of the supporting affidavit to the motion since the same was sworn by an advocate rather than by the applicant himself.
6. Upon my perusal of the record, I have not come across anything to convince me that the advocate would be precluded from swearing the affidavit in support of the motion since the facts stated therein are within his knowledge and/or have been disclosed to him by his client, the applicant.
7. On the merits, it is clear from the instant motion that the orders sought; though two (2)-fold in nature; are intertwined. I will therefore address them simultaneously.
8. Whereas the applicant brought the motion under the legal provisions touching on review, it is apparent that the orders sought are essentially for the enlargement/extension of time within which the applicant can prosecute his suit and for the applicant to be allowed to testify virtually with the help of a sign language interpreter.
9. In the supporting and supplementary affidavits, advocate Christopher Waiyaki states that the applicant has not been able to prosecute the suit within the 120 days directed by this court for the reason that he is a German national and that he has to date been denied access into the country despite correspondence from his advocate to the department of Immigration requesting that he be allowed to travel from Germany into Kenya.
10. The advocate further states that the applicant suffers from a hearing disability which further inhibits his ability to effectively prosecute the suit as it stands, and hence the instant Motion.
11. It is the averment by the advocate that the applicant remains keen on prosecuting the suit and therefore seeks the indulgence of this court.
12. In response, Millicent Ng'etich states on behalf of the respondent that the applicant's advocate has never relayed to the respondent information relating to the applicant's immigration and communication issues and that it is apparent that the applicant's aim is to unnecessarily prolong the matter.
13. Upon my study of the record, it is clear that the respondent had previously filed the application dated February 21, 2021
14. Upon hearing the abovementioned application, this court by way of the ruling delivered on July 1, 2022 dismissed the same but ordered the applicant to prosecute his suit within 120 days therefrom, failing which the suit would be dismissed.
15. It is apparent from the record that the instant motion was brought before the lapse of the 120 days.
16. Upon considering the explanation given by the applicant for the delay in prosecuting the suit, I am satisfied that the applicant has brought credible evidence as annexed to the motion, to support the averments that he has been denied entry into the country and that he has a hearing disability.
17. Furthermore, under the provisions of section 95 of the [Civil Procedure Act](#) and order 50, rule 6 of the [Civil Procedure Rules](#), the courts have discretionary power to enlarge the time required for the performance of any act under the Rules even where such time has expired.



18. In view of the foregoing and in the interest of justice, I am convinced that my discretion will be properly exercised in enlarging the time required for prosecuting the suit.
19. I am also convinced that in the interest of justice and in ensuring the progress in this matter, it would only be fair for me to allow the applicant to testify virtually and with the assistance of a sign language interpreter.
20. The upshot, therefore, is that the Motion is allowed thus giving rise to issuance of the following orders:
  - i. The plaintiff/applicant be and is hereby granted an extension of a further 120 days from today to prosecute his suit, failing which the suit shall be dismissed with costs.
  - ii. The plaintiff/applicant be and is hereby granted leave to testify in the matter virtually through video conference and with the help of a sign language interpreter.
  - iii. Costs of the application to abide the outcome of the suit.

**DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 29<sup>TH</sup> DAY OF NOVEMBER, 2022.**

.....

**J. K. SERGON**

**JUDGE**

**In the presence of:**

..... for the Plaintiff/Applicant

..... for the Defendant/Respondent

