

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

MISCELLANEOUS CIVIL APPLICATION NO. 20 OF 2016

P I N APPELLANT

AND

F N RESPONDENT

RULING

1. The proceedings herein were initiated by way of a Notice of Motion dated 11th February 2016. The application touches on proceedings that were being conducted in **Milimani CMCDC No. 62 of 2014**.
2. I called for the lower court file, which was availed and I have had occasion to peruse it. The divorce proceedings were concluded and it could appear that the order being challenged was founded on a post-judgment application.
3. The process of challenging, at the High Court, the decision of a lower court made in divorce proceedings is by way of filing an appeal against the impugned decision. There is no provision for filing a miscellaneous application to deal with such a decision.
4. I have perused the papers in the matter before me, and noted that no appeal was ever lodged against the decision the subject of the application that I am asked to determine. Procedurally, therefore, there is no basis or foundation for the application dated 11th February, 2016.
5. The said application is incompetent and an abuse of the court process. It is hereby struck out with costs. The interim orders made herein on 12th February 2016 are accordingly discharged.

DATED, SIGNED and DELIVERED at NAIROBI this 24TH DAY OF MARCH, 2016.

W. MUSYOKA

JUDGE