



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL APPEAL NUMBER OF 335 OF 1997

MICHAEL MUNGAI.....APPELLANT

VERSUS

NANCY WANJERI & OTHERS.....RESPONDENT

RULING

The Applicant herein has moved this honourable court by way of a Notice of Motion dated the 10th day of March, 2016 seeking orders that this Honourable Court give specific court orders, directives and/or rulings so as to enforce the earlier court orders and decrees that have been issued by the High Court in this matter.

He has also sought for orders that this court makes a specific clarification and amendments as to how, when and by who the orders of the court shall be executed.

The Applicant's application is based on the grounds that on the 25th February, 2016, this court found that the best cause of action for the Applicant would be to pursue housing finance and in the event that the orders were not obeyed, he be at liberty to take out contempt of court proceedings or any other remedy that he deems fit in the circumstances.

When the application, came up for hearing, the applicant who is unrepresented in this matter made lengthy submissions in support of this application most of which were not material to his case. This court will, however, consider the relevant portions of the affidavit and the submissions.

The Applicant avers that the ruling delivered on the 25th February, 2016 has some errors, slips and omissions and that it requires some clarifications and/or amendments in accordance with Sections 1A, 1B, 3A and other provisions of the Civil Procedure Act and the Constitution of Kenya, 2010 which include Article 159.

The 1st Respondent filed a replying affidavit on the 20th July, 2016 which was sworn on the 19th day of July, 2016 by Martin Machira who is a legal manager-litigation of the 1st Respondent. He avers that the 1st Respondent has never been a party to the proceedings that culminated to the orders and/or decree that the applicant is referring to, in the instant application. That the Applicants application is an omnibus application which lacks clarity, cogency and proper issues for determination by this Honourable Court.

The Respondent has further submitted that the applicant has not specifically identified the alleged errors in the orders that he is seeking to have amended and thus putting the court in an awkward position to

discern the same. That the instant application is engulfed with new and unrelated issues and is merely a waste of courts precious time and scarce resources. That there are no real issues before the court for determination in the instant application and that the proceedings relating to appeal were finalized and it is therefore inappropriate for the Applicant to keep clogging the court with numerous frivolous applications.

This court has considered the application and the material before it. The application is vague and the orders sought are not clear. The court has been asked to give specific court orders and directions with respect to previous orders and rulings that have been issued in this matter and the same have not been specified. Similarly, the court has been asked to make specific clarifications and amendments as to how, when and who the orders of the court shall be executed.

As pointed out hereinabove, the orders sought in the application are vague and this court is not in a position to grant the same.

In the premises, the application dated 10th March, 2016 is hereby dismissed with no orders as to costs.

Dated, signed and delivered at Nairobi this 17th day of November, 2016.

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L NJUGUNA

JUDGE

In the presence of

..... ***for the Appellant***

..... ***for the Respondent.***