



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL DIVISION
CIVIL SUIT NO. 1879 OF 1997**

**1.SAMUEL AMUGUNE
2.WILLIAM MWANGI KAIBERE
3.MICHAEL NDUNGU KIBUKU
4.PAUL MUTEETEE
5.WILLIAM MAJANI (on behalf of themselves and other former employees
of the former East African Community number 105 persons).....PLAINTIFFS**

VERSUS

THE ATTORNEY GENERAL..... DEFENDANT

AND

**IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. 743 OF 2002**

**1.CHRISTOPHER MALOBA
2.WILLIAM NASUBO(suing on behalf of themselves and over 1000 former employees
of the Defunct East African Community and its institutions).....PLAINTIFFS**

VERSUS

**3.THE ATTORNEY
GENERAL.....DEFENDANT**

RULING

The plaintiff/applicants have filed a notice of motion dated 28th January 2013, under section 3, 3A, 1A and 1B of the Civil Procedure Act, Order 9 rule 9 and Order 45 Rule 1 of the Civil Procedure Rules 2010 and all the other enabling provisions of the law seeking the following orders;

spent

That the Honourable court be pleased to review the judgment delivered by the honourable justice Isaac Lenaola on 8th October 2004.

That the respondent bears the costs of this application.

The application is based on the following grounds;

That judgment herein was rendered on 8th October 2004 by the Honourable Justice Isaac Lenaola.

That the plaintiffs have instructed the law firm of Mutembei, Gichuru & Co. Advocates to act for them in these proceedings in place of the firms of Hamilton, Harrison & Mathews and Eboso & Wandago Advocates.

That the plaintiffs have since discovered new evidence which was not within their knowledge and could not be produced at the time judgment was rendered.

That there are sufficient reasons to warrant intervention.

That there are grave errors apparent on the face of the record.

That it is in the interest of justice and fairness that the application herein be allowed as prayed.

The application is supported by the affidavit of Christopher Malova sworn on the 28th January 2013, he states he has the authority of his co-plaintiffs to swear the affidavits. The application was served on the respondent. There was no replying affidavit from the respondent. In the supporting affidavit of the applicants, they state that they have come across information that warrants a review of the court's judgement and intervention by the court in the interest of justice. At paragraphs 5 to 17 he details the information he has received from one Mr. Pantaleo Wandera and various decision given in other suits in the High Courts of Uganda and Tanzania.

Under order 45 rule 1 of the Civil Procedure Rules a party may seek a review on grounds that it has discovered new and important evidence that was not within his knowledge or could not be produced by him at the time when the decree or order was passed, or on account of some mistake, or error apparent on the face of the record, or for any other sufficient reason.

The applicants give details of information that they have come across but do not explain why the said evidence was not produced at the time of the hearing. It is evident that the parties have been in several courts in various matters seeking various reliefs. I note that the judgment the applicants seek a review of was delivered on 8th October 2004, 9 years ago. The applicants do not explain the delay in filing this application nor do they state when they came across the information or how this information affects the decision that was given by the court. It is not this court's duty to look at the paragraphs and conclude that the information therein is sufficient to seek a review or warrant an intervention. The grave error apparent on the face of the record has also not been explained by the applicants. In my view if the applicants were dissatisfied with the Judgment of the court they should have appealed. I find no merit in the application, the applicant have failed to bring themselves within the ambit of order 45 rule 1 and I therefore dismiss the application dated 28th January 2013 with no orders as to costs.

Orders accordingly.

Dated, signed and delivered this 29th Day of November 2013.

R. E OUGO

JUDGE

In the presence of:

.....**Plaintiffs/Applicants**

.....**Defendant/Respondent**

.....**Court Clerk**