



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Suit 837 of 2000**

**PALACE DRYCLEANERS LTD ..... 1<sup>ST</sup> PLAINTIFF**

**GEORGE GIBUKU MBUTHIA ..... 2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**KENYA POWER & LIGHTING & CO. LTD ..... DEFENDANT**

**RULING**

In this application, stated to be brought “under the inherent powers of the Court”, the Applicant, who acted in person, seeks to “set aside” the Orders given by Honourable Justices Mbito on 18<sup>th</sup> October, 2002, Justice Hayanga on 20<sup>th</sup> November, 2003, P J Ransley on 28<sup>th</sup> April, 2004 and Alnashir Visram on 13<sup>th</sup> February, 2006.

There are needlessly long 23 grounds stated on the face of the application. Essentially, these are “facts” the Applicant relies on to support his application, which facts ought to be in the Supporting Affidavit, and not in the way they are presented. The precise rules under which this application is brought are not stated. I will overlook all these procedural irregularities because the Applicant appears not to be an advocate.

All the “grounds” cited by the Applicant to support his application have been considered and determined at some point by the several Judges who have dealt with this file. By her Ruling on 7<sup>th</sup> July, 2004 Justice Mugo disallowed the Application to set aside Justice Mbito’s Ruling made on 18<sup>th</sup> October, 2002. This Court, by a Ruling made on 13<sup>th</sup> February, 2006, dismissed on application for review. All the issues raised in this application have been dealt with by various Judges including Mbito, J, Hayanga, J, Mugo, J, Ransley, J and by this Court.

The only new ground that the Applicant has raised, is that the handwritten Ruling of Justice Mbito made on 18<sup>th</sup> October, 2002 is undated and, therefore, a nullity. This ground does not appear on the body of the application, but was raised at the hearing of arguments, and was supported by the Applicant’s further affidavit sworn 8<sup>th</sup> March, 2006. He has annexed the Ruling which indeed is signed but not dated. The Applicant has cited the Court of Appeal decision in **George G Mbutia vs Dorsila Ayuma Shiraku & Others (C A 93 of 2000)** in support of his argument that the undated Ruling is a nullity.

That Ruling is a brief five line Ruling which was handed down to strike out the record of appeal on the ground that the Ruling relied upon was not dated. The decision was made on its facts, and is not helpful in this case. No other authorities have been cited before this Court. I have examined the original record in this case and have noted that the Ruling is preceded (on the previous page) by the date when the Ruling was read, the Coram on that day, followed by the Judge’s signature. However, at the end of the Ruling, the Judge did not once again insert the date, so that the Ruling if seen in isolation, would appear to be undated, but in actual fact the date does appear on the preceding page. Accordingly, it is my view that the Ruling is dated, and is valid. It is noteworthy that the Applicant has chosen to rely on this argument some four years after the Ruling was made, and in a last ditch effort to set aside the said Ruling. I see no merit to this application and dismiss the same with costs.

Dated and delivered at Nairobi this 27<sup>th</sup> day of April, 2006.

**ALNASHIR VISRAM**

**JUDGE**