



REPUBLIC OF KENYA



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**Sambu v National Land Commission & 2 others (Environment & Land
Case 5 of 2017) [2025] KEELC 448 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 448 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERICHO
ENVIRONMENT & LAND CASE 5 OF 2017
LA OMOLLO, J
FEBRUARY 6, 2025**

BETWEEN

THOMAS KIMAGUT SAMBU PLAINTIFF

AND

NATIONAL LAND COMMISSION 1ST DEFENDANT

KENYA NATIONAL HIGHWAYS AUTHORITY 2ND DEFENDANT

THE HON. ATTORNEY GENERAL 3RD DEFENDANT

RULING

Introduction

1. This ruling is in respect of the Plaintiff/Applicant's Notice of Motion application dated 11th June, 2024. The application is expressed to be brought under Sections 1A, 1B and 3A of the [Civil Procedure Act](#), Order 45 Rule 1 & Order 50 Rule 1 of the Civil Procedure Rules.
2. The Plaintiff/Applicant seeks the following orders;
 - a. Spent
 - b. That this Honourable Court be pleased to review and or set aside its orders given on 16th May, 2024.
 - c. That costs of application be provided for.
3. The application is based on the grounds on its face and the supporting affidavit of one Thomas Kimagut Sambu sworn on 11th June, 2024.



Factual Background.

4. The Plaintiff/Applicant commenced the present proceedings vide the Complaint dated 20th January, 2017 which was amended on 3rd May, 2017. The Plaintiff/Applicant further amended his complaint on 20th April, 2018 and seeks the following prayers;
 - a. That there be a declaration that the portions of the parcels of lands compulsorily acquired by the 1st Defendant comprised in both the Plaintiff's parcels of lands namely LR No's Kericho/Kipchimchim/656 and 3027 measuring 3.2 acres.
 - b. A declaration that the aforesaid 3.2 acres are valued at Kshs. 134, 295,000 for purposes of compensation.
 - c. A declaration that the Plaintiff is entitled to Kshs. 18, 273, 316/= being the value of building materials as well as Kshs. 730,000/= and Kshs. 27,000/= respectively being the costs incurred by the Plaintiff in preparing of building plan and advertisement of change of user.
 - d. A declaration that the 2nd Defendant having paid Kshs. 41,478,195 out of Kshs. 153, 325,316/= to the Plaintiff, a sum of Kshs. 111,847, 121/= remains to be paid.
 - B. That there be a declaration that the Plaintiff is entitled the sum (sic) of kshs. 48,620,000/= being loss suffered by him pursuant to compulsory acquisition of his portions of lands vide Kenya Gazette Notice No. 2029 dated 2nd March, 2018.
 - C. An order directing the 1st and 2nd Defendants to jointly and severally forthwith make prompt payment of Kshs. 48,620,000/= being just and full compensation to the Plaintiff in respect of the third compulsorily acquired portions of his lands namely LR No. Kericho/Kipchimchim/656 and 3027 so acquired vide Kenya Gazette Notice No. 2029 dated 2nd March, 2018.
 - e. That the Plaintiff is entitled to general damages, exemplary damages and aggravated damages.
 - f. The Defendants be ordered to pay costs of the suit.
5. The 2nd Defendant/Respondent filed its Statement of Defence on 5th June, 2017 wherein it denies the averments in the Amended Complaint and seeks that the Plaintiff/Applicant's suit be dismissed with costs.
6. The 3rd Defendant/Respondent entered appearance on 8th June, 2017 but has not filed any statement of defence.
7. The Application under consideration first came up for directions on 13th June, 2024 when the Court directed that the Defendants/Respondents be served.
8. On 10th July, 2024 the Court issued directions that the application be heard by way of written submissions.
9. The matter was mentioned severally to confirm filing of submissions and was finally reserved for ruling on 3rd October, 2024.

The Plaintiff/Applicant's Contention.

10. The Plaintiff/Applicant contends that he is the registered owner of land parcel No's Kericho/Kipchimchim/656 and 3027 measuring 1.7 Ha and 0.86 Ha respectively. He adds that the said properties are free holds and that they are situated along the Kericho – Kisumu Highway.



11. The Plaintiff/Applicant also contends that vide Gazette Notice No. 1821 dated 18th March, 2016, the 1st Defendant/Respondent compulsorily acquired 0.2599 Ha of land parcel No. Kericho/Kipchimchim/656 and 0.1723 of land parcel No. Kericho/Kipchimchim/3027.
12. The Plaintiff/Applicant further contends that the said portions of land were delivered to the 2nd Defendant/Respondent for the construction of the Kericho – Kisumu interchange. He was paid Kshs. 40,935,395/= as compensation which he did not consider as adequate.
13. It is his contention that by Gazette Notice No. 10642 dated 23rd December, 2016, the 1st Defendant/Respondent compulsorily acquired an additional portion measuring 0.2713 Ha comprised in land parcel No. Kericho/Kipchimchim/656 and was awarded Kshs. 542,600/= which amount was not sufficient.
14. It is also his contention that after he was inadequately compensated, he engaged the services of Prime Land Valuers who informed him that the portion the 2nd Defendant/Respondent was utilizing measured 3.2 acres which was more than the land that had been identified for compulsory acquisition in the aforesaid Gazette Notices. The value of the said portion is Kshs. 134, 295,000/=.
15. It is further his contention that in his Complaint that was amended on 3rd May, 2017 he had sought for a declaration that the additional land measuring 3.2 acres be valued at Kshs. 134, 295,000/= for purposes of compensation.
16. He contends that he had initially filed the suit against the National Land Commission but he later joined the Kenya National Highway Authority and the Attorney General when he amended his Complaint.
17. He also contends that while the matter was still pending, the 1st and 2nd Defendants/Respondents acquired additional portions measuring 0.267 Ha of land parcel No's Kericho/Kipchimchim/656 & 3027 which was the third acquisition without any formal notice and/or compensation.
18. He further contends that after the third acquisition, he filed the application dated 29th March, 2018 seeking to further amend his Complaint.
19. It is his contention that vide the ruling delivered on 16th April, 2018, he was granted leave to further amend the Complaint which he did on 20th April, 2018 where he sought for a further sum of Kshs. 48, 620,000/= being the value of the portions that were further compulsorily acquired while the suit was pending.
20. It is also his contention that in the ruling delivered on 29th August, 2018, the Court held that the amount payable to him
in respect of the third acquisition of 0.2670 Ha comprised in Kericho/Kipchimchim/656 was Kshs. 14, 927,000/=. In respect of 0.00770 Ha of land parcel No. Kericho/Kipchimchim/3027 the Court awarded him kshs. 3,473,000/=.
21. It is further his contention that upon determination of the issue of the third acquisition, he instructed a licensed surveyor who upon conducting a ground survey discovered that he had not been compensated for 2.14 acres that had been compulsorily acquired. He adds that the value of the said portion is kshs. 85,000,000/=.
22. He contends that upon making the said discovery, he filed the application dated 30th June, 2023 seeking to further amend the Complaint dated 20th April, 2018 to pursue compensation in respect of the 1st and 2nd acquisition that was pending hearing and determination.



23. He also contends that he is advised by his advocates on record that this Court on 16th May, 2024 delivered a ruling on the said application where it stated that the Court had already pronounced itself in the ruling of 29th August, 2018 and the decree issued and the bill of costs taxed.
24. He further contends that there is an error apparent on the face of the record as the ruling delivered on 29th August, 2018 was in respect of an interlocutory application and was considered as the compensation of the third acquisition while the determination with regard to the 1st and 2nd acquisition is still pending.
25. It is his contention that he is advised by his advocates on record that the orders issued by this Court on 22nd October, 2018 reflects the ruling delivered on 29th August, 2018 and therefore the decree issued on 4th October, 2018 was erroneously extracted and issued as it does not reflect the contents of the ruling of 29th August, 2018.
26. It is also his contention that in the said circumstances, the ruling delivered on 16th May, 2024 ought to be reviewed and set aside and his application to amend the Plaint dated 20th April, 2018 allowed.

3rd Defendant/Respondent's Response.

27. The 3rd Defendant/Respondent filed Grounds of Opposition dated 9th July, 2024 that are as follows;
 - a. That the instant application for a review is misconceived, incurably defective and an abuse of the Court's process and therefore should be dismissed with costs to the Defendants.
 - b. That the Applicant has not attached as evidence the ruling he seeks to have reviewed and/or set aside.
 - c. That the Applicant has not satisfied the conditions for grant of the orders sought as set out in Order 45 Rule 1 of the Civil Procedure Rules. The Applicant has only mentioned that there was an error apparent on the face of the record in the ruling dated May 16th 2024 but has failed to demonstrate the same.
 - d. That the instant application for review is a pure demonstration of the Applicant's attempt to circumvent the law and have a second bite at the cherry by subject (sic) the Court to sit on its own appeal. The Court through a ruling dated August 29th 2018 had heard and pronounced itself regarding the issue of the 1st, 2nd and 3rd acquisition.
 - e. That the Court is now functus officio having heard, determined and entered judgment dated August 29th 2018 and in acceding to the Plaintiff's request to revise the ruling dated 16th May, 2024 and allow the Plaintiff to amend the Plaint dated April 20th 2018 the same will amount to the Court sitting on appeal on its own decision.
 - f. That the Court's decision to award compensation for the third acquisition only is an issue which can only be addressed by the appellate Court and not through an amendment of the Plaint.
 - g. That it is in the interest of justice that the Court throws out the instant application in line with the established practice and custom that litigation must come to an end given that there are no sufficient grounds to warrant the Court review its ruling dated May 16th 2024.



2nd Defendant/Respondent's Response.

28. The 2nd Defendant/Respondent filed Grounds of Opposition dated 10th July, 2024. They are as follows;
- a. The alleged error cited by the Applicants is not a patent and obvious mistake. Identifying this alleged error requires a detailed examination and interpretation of evidence and arguments.
 - b. The decision by Lady Justice M. Oundo on 16th May, 2024 was made within the judicial discretion of the Honourable Court based on the evidence and legal arguments presented by parties herein.
 - c. The Applicants' claims are based on a misinterpretation of the factual matrix and applicable legal principles.
 - d. Disagreement with the Court's factual findings or legal interpretation does not qualify as an error on the face of the record.
 - e. The alleged error does not pertain to any clerical or arithmetical mistake or any error arising from an accidental slip or omission.
 - f. The Honourable Court correctly found itself functus officio in its ruling of 16th May, 2024.
 - g. The assertion by the Applicants that the decree was erroneously issued is unfounded. Courts do not issue decrees erroneously.
 - h. The Applicants, having relied on the decree to tax their bill of costs cannot now challenge the same decree claiming it was issued erroneously.
 - i. The Applicant is estopped from contesting the validity of the decree he has relied upon for the taxation of his bill of costs. Their actions constitute acceptance of the decree's legitimacy.
 - j. That the Application as taken out is incompetent, misconceived, and is an abuse of the Court process aimed at wasting judicial time and resources at the expense of the Defendants.
 - k. That on the aforementioned grounds, the 2nd Defendant/Respondent shall seek dismissal of the Plaintiff's Notice of Motion application.

Issues for determination.

29. The Plaintiff/Applicant filed his submissions on 27th September, 2024, the 2nd Defendant/Respondent filed its submissions on 29th September, 2024 while the 3rd Defendant/Respondent filed its submissions on 27th September, 2024.
30. The Plaintiff/Applicant submits on whether or not there is an error or mistake on the face of the ruling delivered on 16th May, 2024 and whether it can be reviewed.
31. The Plaintiff/Applicant relies on Order 45 Rule 1 of the Civil Procedure Rules, reiterates the averments in his supporting affidavit and submits that the Court is functus officio with regard to the third acquisition.
32. The Plaintiff/Applicant reiterates that there is an apparent error and/or mistake on the face of the record as matters arising in respect to the 1st and 2nd acquisition are pending hearing and determination and therefore this Court should review its ruling delivered on 16th May, 2024 and allow him to further amend his plaint.



33. The Plaintiff/Applicant relies on the judicial decision of Njoroge & 104 others (suing in representative capacity for Kariobangi South Civil Servants Estate Tenant Purchasers) v Savings & Loan Kenya Ltd & another [1988] eKLR and urges the Court to allow his application as prayed.
34. The 2nd Defendant/Respondent submits on whether the Plaintiff/Applicant has demonstrated the existence of an error on the face of the record.
35. The 2nd Defendant/Respondent relies on the judicial decisions of Nyamogo & Nyamogo v Kogo (citation not given), National Bank of Kenya Limited v Ndungu Njau [1997] KECA 71 (KLR) and Republic v Advocates Disciplinary Tribunal Ex parte Apollo Mboya [2019] KEHC 6379 (KLR).
36. The 2nd Defendant/Respondent submits that the Plaintiff/Applicant seeks a review of this Honourable Court's decision on the ground that there is an error on the face of the record.
37. The 2nd Defendant/Respondent also submits that an error on the face of the record must be one that is so apparent that it can be seen at first glance without requiring a detailed examination of the evidence or legal arguments.
38. The 2nd Defendant/Respondent relies on the judicial decision of National Bank of Kenya Ltd v Ndungu Njau [1997] eKLR and submits that even though the Plaintiff/Applicant claims that there is an error on the face of the record, the said error is not obvious.
39. It is the 2nd Defendant/Respondent's submissions that the alleged error is a contested matter that necessitates detailed examination and interpretation of both the evidence and legal principles involved in the case.
40. It is also the 2nd Defendant/Respondent's submissions that the decision made by the Court on 16th May, 2024 was within the judicial discretion of the Court and that the Plaintiff/Applicant's argument at its core amounts to a disagreement with the Court's interpretation of the facts and the applicable legal principles.
41. The 2nd Defendant/Respondent submits that even though the Plaintiff/Applicant claims that the Court had not made a determination on the first and second acquisitions and further that the decree dated 4th October, 2018 was erroneously issued, the Plaintiff/Applicant relied on the same decree to tax his bill of costs. In doing so, the Plaintiff/Applicant accepted the legitimacy of the decree and is now estopped from contesting its validity.
42. The 2nd Defendant/Respondent submits that the Court in its ruling delivered on 16th May, 2024 considered the Plaintiff/Applicant's contention and it held that the alleged errors do not constitute a mistake on the face of the record.
43. The 2nd Defendant/Respondent concludes its submissions by urging the Court to dismiss the Plaintiff/Applicant's application.
44. The 3rd Defendant/Respondent submits on whether there is a mistake and/or error on the face of the record to justify review of the ruling.
45. The 3rd Defendant/Respondent relies on Order 45 Rule 1(b) of the Civil Procedure Rules, Section 80 of the *Civil Procedure Act*, the judicial decision of Sardar Mohamed v Charan Singh Nand Sing and another (1959) EA 793 as was cited in Hosea Nyandika Mosagwe & 2 Others v County Government of Nyamira [2022] eKLR and submits that the Plaintiff/Applicant alleges that there is an error apparent on the face of the record in the ruling that dismissed his application to further amend the Plaintiff's application.



46. The 3rd Defendant/Respondent submits that the Court in its ruling declared itself *functus officio* and stated that it had already pronounced itself on the matter through a ruling dated 29th August, 2018 which had already been perfected into an order and/or decree.
47. The 3rd Defendant/Respondent relies on the judicial decision of *Republic v Advocates Disciplinary Tribunal Ex Parte Apollo Mboya* [2019] eKLR and submits that an error or mistake apparent on the face of the record is one that is self-evident and does not require elaborate arguments to be established.
48. The 3rd Defendant/Respondent relies on the judicial decision in *Nyamogo & Nyamogo v Kogo* [2001] EA 170 and submits that contrary to the assertions by the Plaintiff/Applicant, the Court in its ruling delivered on 29th August, 2018 considered the issue of the first and second acquisition. Therefore, there is no mistake or error apparent on the ruling that was delivered on 16th May, 2024.
49. The 3rd Defendant/Respondent submits that the Plaintiff/Applicant is asking the Court to sit on appeal on its own decision. It further submits that when a party believes that that the Court should have reached a different conclusion or that the decision was erroneous it should appeal rather review because review is limited in scope.
50. The 3rd Defendant/Respondent relies on the judicial decisions of *Republic v Advocates Disciplinary Tribunal ex parte Apollo Mboya* [2019] eKLR, *National Bank of Kenya Limited vs Ndungu Njau* [1997] eKLR and concludes its submissions by urging the Court to dismiss the Plaintiff/Applicant's application.

Analysis and Determination.

51. I have considered the application, the responses thereto and the submissions filed by all parties.
52. It is my view that the only issue that arises for determination is whether the Court should review its ruling delivered on 16th May, 2024.
53. Section 80 of the *Civil Procedure Act* provides as follows;
 - “ Any person who considers himself aggrieved—
 - (a) by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or
 - (b) by a decree or order from which no appeal is allowed by this Act, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.”
54. Order 45 Rule 1 and 2 of the Civil Procedure Rules provides as follows;
 - “(1) Any person considering himself aggrieved—
 - (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
 - (b) by a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some



mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the Court which passed the decree or made the order without unreasonable delay.

- (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the appellate Court the case on which he applies for the review.”

55. In the judicial decision of Republic v Public Procurement Administrative Review Board & 2 others [2018] eKLR the Court held as follows;

“Section 80 gives the power of review and Order 45 sets out the rules. The rules restrict the grounds for review. The rules lay down the jurisdiction and scope of review limiting it to the following grounds; (a) discovery of new and important matter or evidence which after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or the order made or; (b) on account of some mistake or error apparent on the face of the record, or (c) for any other sufficient reason and whatever the ground there is a requirement that the application has to be made without unreasonable delay.”

56. As was held in Republic v Public Procurement Administrative Review Board & 2 others (supra) cited above, the Court can only review its orders upon discovery of new and important evidence which after the exercise of due diligence could not be adduced at the time the decree was issued, on account of mistake or error apparent on the face of the record and any other sufficient reason.
57. The Plaintiff/Applicant is seeking that the Court reviews its orders issued on 16th May, 2024 and he be allowed to amend his Plaint.
58. The Plaintiff/Applicant contends that the Court in its ruling delivered on 16th May, 2024 held that it had already pronounced itself in its earlier ruling delivered on 29th August, 2018 where a decree was issued and the bill of costs taxed.
59. The Plaintiff/Applicant also contends that there is an error apparent on the face of the record as the ruling delivered on 29th August, 2018 was in respect of an interlocutory application on the issue of the third acquisition while the claim for the 1st and 2nd acquisition was pending hearing and determination.
60. The Plaintiff/Applicant further contends that the decree issued on 4th October, 2018 was erroneously issued and does not reflect the contents of the ruling delivered on 29th August, 2018.
61. In response, the 2nd Defendant/Respondent submits that the alleged errors raised by the Plaintiff/Applicant are not obvious and they amount to a disagreement with the Court’s interpretation of the facts and the applicable legal principles.
62. The 2nd Defendant/Respondent also submits that this does not amount to an error apparent on the face of the record and urges the Court to dismiss the Plaintiff/Applicant’s application.
63. The 3rd Defendant/Respondent submits that an error or mistake apparent on the face of the record should be self-evident and does not require elaborate arguments to be established.



64. The 3rd Defendant/Respondent submits that the grounds upon which the Plaintiff/Applicant is relying on in his application for review do not demonstrate any error apparent on the face of the record and his application should therefore be dismissed with costs.
65. A perusal of the Court record shows that the Court delivered a ruling on 16th May, 2024 on the Plaintiff/Applicant's Notice of Motion application dated 30th June, 2023.
66. In the said application, the Plaintiff/Applicant sought leave to further amend his plaint. The Court in its ruling held as follows;

“I have asked myself whether amending the Applicant's further amended Plaint would be for the purpose of determining the real question in controversy between the parties keeping in mind that the Court had already pronounced itself in its ruling of 29th of August 2018 wherein the decree had been issued and the Applicant had taxed their bill of costs, wherein I am not satisfied as to the truth and substantiality of the proposed amendment...

The Orders of 29th of August 2018 having been perfected into an order/decreed where the parties were now at an execution stage, I thus find that the Court is now functus officio, the application dated the 30th June, 2023 is herein dismissed with costs.”

67. The Court can only review its orders upon discovery of new and important evidence which after the exercise of due diligence could not be adduced at the time the decree was issued, on account of mistake or error apparent on the face of the record and any other sufficient reason.
68. The Plaintiff/Applicant is seeking that the Court reviews its orders issued on 16th May, 2024 on the ground that there is an error apparent on the face of the record.
69. The Court of Appeal in *Muyodi v Industrial and Commercial Development Corporation & Anor* [2006] 1 EA 243 held as follows;

“In *Nyamogo and Nyamogo v Kogo* [2001] EA 174 this Court said that an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case. There is real distinction between a mere erroneous decision and an error apparent on the face of the record. Where an error on a substantial point of law stares one in the face, and there could reasonably be no two opinions, a clear case of error apparent on the face of the record would be made out. An error which has to be established by a long drawn process of reasoning or on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Again, if a view adopted by the Court in the original record is a possible one, it cannot be an error apparent on the face of the record even though another view was also possible. Mere error or wrong view is certainly no ground for a review although it may be for an appeal. This laid down principle of law is indeed applicable in the matter before us.” (Emphasis mine)

70. In the judicial decision of *Omote & another v Ogutu (Civil Appeal E005 of 2021)* [2022] KEHC 16441 (KLR) (19 December, 2022) (Ruling) the court held as follows;

“20 ... The fact that a party believes that the Court should have reached a different conclusion or that the decision was erroneous are matters fit for appeal rather than review which is limited in scope. Notably also, courts have held that; “the process of reasoning cannot be treated as an error apparent on the face of the



record justifying the exercise of the power of review.” And that; ‘an erroneous order/decision cannot be corrected in the guise of exercise of the power of review.’(Republic v Advocates Disciplinary Tribunal Ex Parte Apollo Mboya [2019].... Accordingly, the supposedly ‘mistake or error apparent on the face of the record’ is not a misstate (sic) or error in the sense of the law for which review may be granted.” (Emphasis mine)

71. In the judicial decision of Republic v Medical Practitioners & Dentists Board & Another & another; MIO1 on behalf of MIO2 (a Minor) & another (Interested Party); Kingángá (Ex parte) (Miscellaneous Civil Application 59 & 63 of 2019 (Consolidated)) [2021] KEHC 298 (KLR) (Judicial Review) (16 November 2021) (Ruling) the Court held as follows;

“An error apparent on the face of the record exists if of two or more views canvassed on the point it is possible to hold that the controversy can be said to admit of only one of them. If the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it is difficult to hold that there is an error apparent on the face of the record. Review of the earlier order cannot be done unless the Court is satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review.” [Emphasis Mine]

72. An error apparent on the face of the record must be a self-evident error which does not need elaborate arguments to such a mistake or error on the face of the record.

73. As stated, the Plaintiff/Applicant contends that there is an error apparent on the face of the record as the Court in its ruling delivered on 16th May, 2024 held that the Court had pronounced itself in its ruling delivered on 29th August, 2018 and a decree issued and yet the ruling delivered on 29th August, 2018 was with respect to an interlocutory application. The Plaintiff/Applicant also contends that the decree issued on 4th October, 2018 was erroneously issued.

74. As aforementioned in the preceding paragraphs, an error apparent on the face of the record must be self-evident. In the event that a party argues that the decision of the Court was erroneous, the proper recourse would be to file an appeal.

75. In the present matter it is my view that the Plaintiff/Applicant is essentially contending that the decision of this Court in its ruling delivered on 16th May, 2024 was erroneous. My view, therefore, is that this can only be a ground of appeal and not review.

Disposition.

76. The Plaintiff/Applicant has not demonstrated that there is an error apparent on the face of the record to warrant the review of the orders issued by this court on 16th May, 2024.

77. Consequently, I find that the Plaintiff/Applicant’s application dated June 11, 2024 lacks merit and it is hereby dismissed with costs to the 2nd and 3rd Defendants/Respondents.

78. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KERICHO THIS 6TH DAY OF FEBRUARY, 2025.

L. A. OMOLLO



JUDGE.

In the presence of: -

Mr. Migiro for the Plaintiff/Applicant.

Mr. Willy for the 2nd Defendant/Respondent.

Miss Chepkemai for the 3rd Defendant/Respondent.

Court Assistant; Mr. Joseph Makori.

