



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**MILIMANI LAW COURTS**

**ELC CASE 177 OF 2018**

**PATRICK J. P KANYAGIA.....PLAINTIFF**

**=VERSUS=**

**VIOLET L MANINGO.....DEFENDANT**

**RULING**

1. This is a Ruling in respect of Notice of Motion dated 26<sup>th</sup> April 2021 in which the Defendant/Applicant seeks review of this court's orders of 26<sup>th</sup> April 2021. The Applicant seeks review of the orders to enable her be heard on the application dated 8<sup>th</sup> March 2021 before the court can give further orders in respect of the application dated 8<sup>th</sup> March 2021.

2. On 26<sup>th</sup> April 2021, the Applicant's application dated 8<sup>th</sup> March 2021 came up for hearing. The Applicant was present virtually but her lawyer had problems joining the online hearing. The court directed that the application dated 8<sup>th</sup> March 2021 be canvassed by way of written submissions. These are the orders which the Applicant seeks review so that she can be heard orally.

3. The Applicant's application has been opposed by the Plaintiff/Respondent based on grounds of opposition dated 28<sup>th</sup> April 2021. The Respondent contends that the application by the Applicant is an abuse of the process of the court in that the court is at liberty to direct that an application be heard orally or through written submissions.

4. I have considered the Applicant's application as well as the opposition to the same by the Respondent. The only issue for determination is whether the Applicant has made out a case for review of the orders given on 26<sup>th</sup> April 2021. It is not in dispute that the Applicant's counsel had difficulties in joining the online hearing of the application in issue. When the counsel finally joined in the hearing, she found that the court had already given directions as to the disposal of the application.

5. The Applicant seems to be concerned that the date which was given was abit far. The Application is set for mention on 2<sup>nd</sup> June 2021. The date was given considering the availability of dates in the diary. This court's diary is already overstretched. We are giving mention dates in October but owing to the urgency of the matter, the court gave 2<sup>nd</sup> June 2021 when ordinarily, no mention dates are given as the court concentrates on hearings only.

6. There is absolutely no need for review of the court's orders. The court is at liberty to either hear a matter orally or direct that parties put in submissions. In the instant case, the court has already given directions that the application be disposed of by way of written submissions. An oral hearing will not make any difference. I therefore find no merit in this application which is hereby dismissed with no order as to costs.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 19TH DAY OF MAY 2021.**

**E.O.OBAGA**

**JUDGE**

In the Virtual presence of:-

M/s Maina for Defendant/Applicant

Prof.Wangai for Plaintiff/Respondent

Court Assistant: Okumu

**E. O.OBAGA**

**JUDGE**