



Kenya Copyright Board v Kenya Association of Music Producers (KAMP & another; Music Copyright Society of Kenya (MCSK) (Interested Party) (Civil Appeal E1035 of 2024) [2025] KEHC 3395 (KLR) (Civ) (19 March 2025) (Ruling)

Neutral citation: [2025] KEHC 3395 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E1035 OF 2024

AC MRIMA, J

MARCH 19, 2025

BETWEEN

KENYA COPYRIGHT BOARD APPELLANT

AND

**KENYA ASSOCIATION OF MUSIC PRODUCERS (KAMP) ... 1ST RESPONDENT
PERFORMANCE & AUDIO-VISUAL RIGHTS SOCIETY OF KENYA
(PAVRISK) 2ND RESPONDENT**

AND

MUSIC COPYRIGHT SOCIETY OF KENYA (MCSK) INTERESTED PARTY

RULING

1. When this matter came up on 17th March 2025 for directions on the hearing of the Amended Notice of Motion dated 29th October 2024, two issues were raised. The first issue was on the recusal of the Judge on grounds that he had previously dealt with similar matters which are now pending before the Supreme Court. Learned Counsel was of the view that another Judge ought to instead deal with the instant matter.
2. The second issue was a plea for an interim stay of execution of the judgment of the Copyright Tribunal in COPTA No. E002 of 2024 rendered on 3rd September 2024.
3. Learned Counsel for the various parties herein tendered their rival submissions on the twin issues.
4. Having carefully considered the said issues, this Court takes the position that in view of the urge by one of the parties for this Court to recuse itself and having directed that a formal application be made, such



applications ordinarily take precedence. However, depending on the unique circumstances of a case, a Court may nevertheless deal with other issues pending the determination of a recusal application.

5. In this matter, there are myriad of cases that were instituted out of the events under litigation. Apart from the two matters that were handled by the Copyright Tribunal and which are now subject of appeal, there was also a Commercial Petition No. E014 of 2024 at the Commercial and Tax Division which was allegedly determined. This Court called for the said file, but it is yet to be availed.
6. The determination of whether to grant the interim orders sought is, therefore, not a mechanical exercise in this case. It calls upon a Court to comb through all the related matters to avoid a situation of issuing orders that may put the judicial process into ridicule. To this Court, that duty may be well discharged after determination of the recusal application. Having said so and in view of the urgency in this matter and the public interest involved, this Court holds that no doubt the matter calls for urgent dealing. As such, this Court will revisit the directions given on 17th March 2025 with a view of progressing this matter further.
7. Deriving from the foregoing, the following orders do hereby issue: -
 - a. The direction that a formal recusal application be filed is hereby set-aside and this Court accordingly recuses itself from this matter on the basis that it has previously handled related matters and since this Court is not the final appellate Court and there are other Judges in the Division, no prejudice will be visited upon the parties if the matter is to be handled by another Judge.
 - b. This matter shall be placed before Hon. Lady Justice Cherere for further directions on 20th March 2025.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 19TH DAY OF MARCH, 2025.

A. C. MRIMA

JUDGE

