



**M'ikunyua & another v Registrar of Societies; Wanyoike & 5 others
 (Interested Parties) (Judicial Review Application E063 of 2024)
 [2025] KEHC 7534 (KLR) (Judicial Review) (3 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7534 (KLR)

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

JUDICIAL REVIEW APPLICATION E063 OF 2024

RE ABURILI, J

JUNE 3, 2025

BETWEEN

FRANCIS KIRIMU M'IKUNYUA 1ST APPLICANT

PETER KIOKO NDIKU 2ND APPLICANT

AND

REGISTRAR OF SOCIETIES RESPONDENT

AND

MARGARET NJERI WANYOIKE INTERESTED PARTY

JOYCE NYAKERI INTERESTED PARTY

MICHAEL NGUGI KARANJA INTERESTED PARTY

JAMES NJOGU INTERESTED PARTY

CHALRES MWANGI NGUMI INTERESTED PARTY

PETER NDUNG'U MUTIGA INTERESTED PARTY

RULING

1. This matter was initially handled by Justice Ngaah before he was transferred from the Division and station. When the file was placed before me for consideration, the parties represented to the court as if the application that was pending for determination was the one dated 21st March, 2024, which seeks leave of court to apply for judicial review orders.



2. I heard the parties' advocates orally on 29th April 2025 and indeed, from the oral submissions, Mr. Wahome submitted urging the court to grant his clients leave to apply for judicial review orders to quash the letter dated 23/1/2024 written by the Registrar of Societies. Counsel specifically referred to the application dated 21st March 2024 as the application which was being heard, as shown by the handwritten and typed proceedings on record.
3. I then set the ruling date to be 27th May 2025 on which date, I delivered a ruling granting leave to apply.
4. As I was proof reading the ruling and just about to upload it onto the online portal and to dispatch to Kenya Law, it occurred to me that there is a ruling uploaded on 25th March, 2024 by Justice Ngaah wherein he granted leave to the applicants to apply for judicial review and he also issued directions on the timelines for filing of the substantive motion and responses thereto.
5. Accordingly, it became apparent to me that the applicants' counsel had misled the court into believing that the application which was before the court for consideration was for leave to apply, leading this court to write a ruling granting leave and directing that the substantive motion be filed and served within 10 days of the date of the ruling on 27th May 2027, which was in error.
6. On the above ruling date, only the respondent's counsel was present in court and he did not bring to the attention of the court the apparent error. I say error because the court was delivering a ruling on leave to apply yet what the parties ought to have canvassed was the substantive notice of motion dated 26th March 2024.
7. Accordingly, albeit the error identified is not a clerical error correctable under section 99 of the *Civil Procedure Act*, this Court can exercise its inherent Powers under Section 3A of the *Civil Procedure Act* and make orders necessary for the ends of justice or to prevent abuse of the court process. This provision allows this Court to act on its own motion to correct errors that could lead to injustice.
8. Therefore, in exercise of the inherent powers of this court donated by section 3A of the *Civil procedure Act*, and on the court's own motion, I hereby vacate the ruling delivered on 27th May, 2025, on account that the ruling was erroneously written based on misleading submissions by counsel during the oral hearing on 29th April, 2025 and under the mistaken belief that the application under consideration was the one dated 21st March, 2024 seeking leave of court to apply, instead of considering the application dated 26th March, 2024 and which is the substantive motion pursuant to leave granted by Ngaah J on 25th March, 2024.
9. Accordingly, the ruling delivered on 27th May 2025 is accordingly vacated, set aside and expunged from the court record.
10. The Deputy Registrar to notify the respective parties' counsel to appear in Court on 10th June, 2025 to be given a date for delivery of the Judgment on the substantive notice of motion dated 26th March, 2024.
11. I so order.

DATED, SIGNED AND DELIVERED (SUA SPONTE) AT NAIROBI THIS 3RD DAY OF JUNE, 2025

R.E. ABURILI

JUDGE

