



**Siraji t/a Omar Siraji & Co. Advocates v Keynani t/a Keynan & Associates Advocates (Miscellaneous Civil Application E458 of 2025)
[2025] KEHC 11835 (KLR) (Civ) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 11835 (KLR)

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

CIVIL

MISCELLANEOUS CIVIL APPLICATION E458 OF 2025

SN MUTUKU, J

JUNE 16, 2025

BETWEEN

OMAR SIRAJI T/A OMAR SIRAJI & CO. ADVOCATES APPLICANT

AND

**IBRAHIM ALI KEYNANI T/A KEYNAN & ASSOCIATES
ADVOCATES RESPONDENT**

RULING

1. By a Notice of Motion application (the Application) dated 3rd April 2025, the Applicant herein moved this court under sections 1A, 1B, 3A and 80 of the [Civil Procedure Act](#) and Order 45 Rules 1 & 2 of the [Civil Procedure Rules](#) seeking review of the orders of this court issued on 2nd April 2025 in High Court Civil Case No. E071 of 2025, among other prayers stated in that application.
2. The application is supported by the grounds found on the face of it and in the Supporting Affidavit sworn by Omar Siraji Hassan on 9th April 2025.
3. It is stated that the dispute in HCC No. E071 of 2025 relates to a Professional Undertaking dated 11th December 2024 between the parties and not a land dispute; that the dispute was erroneously transferred to Kajiado Chief Magistrates Court which court lacks jurisdiction to determine the matter; that the transfer of the case from High Court to the Chief Magistrates Court was based on the mistaken belief that the dispute concerns land which is situated in Kajiado whereas it strictly involves the enforcement of a Professional Undertaking given by an advocate; that both the Applicant and the Respondent are based in Nairobi and the transaction giving rise to the Professional Undertaking was conducted within Nairobi and that only the High Court has jurisdiction over advocates as officers of the court irrespective of the monetary value of the subject matter.



4. The Application was served on the Respondent but they did not attend court on 4th June 2025 when the application was argued as directed by the Court. Mr. Okundi holding brief for Mr. Siraji made brief oral submissions reiterating the averments made in support of the Application.
5. I have considered the Application and the grounds in support of the same. Counsel for the Applicant also made brief oral submissions in support of the application and I have considered the same. The power to review orders is donated to the court by section 80 of the *Civil Procedure Act* and Order 45 of the *Civil Procedure Rules*. Section 80 provides that:
 - 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.
6. Similar provision is found under Order 45 Rule 1 (1)
 - (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.
7. An Applicant approaching the court seeking review of the orders of the court must demonstrate any of the factors specified above, namely:
 - a. That there is 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.
 - b. That there is some mistake or error apparent on the face of the record.
 - c. For any other sufficient reason.
8. The Applicant did not specifically argue the application under any of the above circumstances. My understanding of the case for the Applicant is that this court made an error in transferring the file to Kajiado Chief Magistrates Court which does not have jurisdiction over the matter.
9. The Court of Appeal in *National Bank of Kenya Ltd vs Ndungu Njau Civil Appeal No. 211 of 1996 (UR)* held, in respect of review, as follows:

“A review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court. The error or omission must be self-evident and should not require an elaborate argument to be established.”



10. To my understanding, the Applicant claims that this court made an error in transferring the case to a court without jurisdiction. After due consideration of this matter, and given that the application is not opposed, it is my view that the Applicant has demonstrated sufficient reason why this court should afford him an opportunity to ventilate his case before this court. Consequently, I will, and do hereby, grant prayers 1 and 4 of the Notice of Motion dated 3rd April 2025. For avoidance of doubt, the order of this court issued on 2nd April 2025 transferring HCCC No. E071 of 2025 to Kajiado Chief Magistrates Court be and is hereby returned to Milimani High Court, Civil Division, for hearing and determination. Costs shall be in the cause.
11. I decline to grant prayers 2 and 3 of the Notice of Motion for reasons that these are matters that require evidence to determine and it would be prejudicial for the Defendant for this court to grant those prayers before the matter is heard fully.
12. Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 16TH JUNE 2025.

S. N. MUTUKU

JUDGE

