



REPUBLIC OF KENYA



KENYA LAW
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Ochieng v Principal Secretary, State Department for Basic Education (Judicial Review 414 of 2014) [2025] KEHC 10441 (KLR) (Judicial Review) (14 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10441 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW 414 OF 2014
JM CHIGITI, J
JULY 14, 2025

BETWEEN

MESHACK OCHIENG APPLICANT

AND

**PRINCIPAL SECRETARY, STATE DEPARTMENT FOR BASIC
EDUCATION RESPONDENT**

RULING

1. The application before this court is the one dated 29th February, 2024 where in the applicant is seeking the following orders:
 - i. That the application be certified as urgent with leave of the court issued on 28th February 2024.
 - ii. That seeking to obtain leave of the court in compliance with the ruling of Justice Ngaah on 26th July 2021 to convert it into judgment.
 - iii. That no orders to cost.
2. On this date, Justice Ngaah directed as follows:
3. In opposing the Application, it is the Respondents case that;
 - a. That in a Ruling delivered on the 20th May 2019 by Hon. Justice M. W. Muigai in Nairobi High Court Commercial & Tax Division Miscellaneous Application No. 167 of 2018 the Exparte' Applicant was held to be a vexatious litigant. Consequently, the Exparte' Applicant is barred from filing or instituting a suit without leave of court.
 - b. That the Pleadings dated 7th October 2024 under Certificate of Urgency filed on 18th October 2024 have been filed without the requisite leave of court.



- c. That where an application for leave has been filed by a vexatious litigant, the Court or the Judge must be satisfied that the suit is not an abuse of the process of the court and that there is a prima facie ground for the suit prior to granting leave of court.
 - d. That the Exparte' Applicant has failed to demonstrate to this court that its Pleadings dated 7th October 2024 are not an abuse of the process of the court and that there is a prima facie ground for a suit against the Respondents.
 - e. That the Certificate of Urgency filed on 18th October 2024 was filed without an application and supporting affidavit and so there is no proper application before court for hearing and determination.
 - f. That the pleadings dated 7th October 2024 under Certificate of Urgency filed on 18th October 2024 has no merit and it is therefore an abuse of the due process of this court.
 - g. That the pleadings dated 7th October 2024 under Certificate of Urgency filed on 18th October 2024 does not disclose any reasonable cause of action against the Respondent.
4. This court has looked at the rival submissions by the respondent and the applicant.
 5. This court is strictly limited to the question of whether or not the applicant should be granted permission to file further application. The court will not delve into the merits or otherwise of the applicant's case.
 6. On 26.7.21, the court ordered;
 - i. The Exparte Applicant is hereby restrained from instituting any further judicial review proceedings on the enforcement of the judgment in High Court Civil Application No. 445 of 2013 - Mecko Enterprises vs. the Permanent Secretary Ministry of Education, without leave of the Court.
 - ii. The Deputy Registrar of the Judicial Review Division of the High Court at Nairobi shall forward a copy of this ruling to the Presiding Judge of the Commercial and Admiralty Division of the High Court at Nairobi for noting and any further action that may be necessary.
 7. I am satisfied that the applicant is entitled to an order granting him leave to file only one application.
 8. This is informed by the provision of Article 48 which guarantee access to justice.
 9. The court does not see any prejudice that the respondent will suffer in the event that the applicant is granted permission to file an application as sought.

Order;

1. The applicant dated 29.2.24 is granted leave to file one Application.
2. The order dated 29.7.21 shall remain in force.
3. No other applications shall be filed by the Applicant without the leave of the court.
4. The cost shall be in the cause.

It is so ordered.

Dated, signed and delivered at Nairobi this 14th day of July, 2025

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J. CHIGITI (SC)

JUDGE

