



Republic v Stanbic Bank of Kenya Limited & 8 others (Criminal Revision E016 of 2025) [2025] KEHC 10524 (KLR) (18 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10524 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL REVISION E016 OF 2025
WM MUSYOKA, J
JULY 18, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

**STANBIC BANK OF KENYA LIMITED 1ST RESPONDENT
DTB BANK 2ND RESPONDENT
FAULU BANK 3RD RESPONDENT
ELIMU SACCO 4TH RESPONDENT
JUHUDI KILIMO BRANCH 5TH RESPONDENT
BENNANDIRA LIMITED 6TH RESPONDENT
BUSIA COUNTY LAND REGISTRAR 7TH RESPONDENT
REGISTRAR OF COMPANIES 8TH RESPONDENT
JAMES NDIRANGU NG'ANG'A 9TH RESPONDENT**

RULING

1. This is an application for revision of orders made on 3rd September 2024, in Busia CMC Misc. Criminal Application No. E135 of 2024. The revision was sought vide a letter that the applicant, the Director of Public Prosecutions, wrote to court, dated 25th June 2025, of a part of the said order of 3rd September 2024, relating to tenants on Busia/Municipality/532, 533, 534 and 535 not to pay rent to Bennandira Limited, James Ndirangu Ng'ang'a and his agents.
2. This file was placed before me on 30th June 2025. I directed service, and fixed the matter for mention on 7th July 2025, and directed the Deputy Registrar to call for the trial records. The records were availed,



and the mention happened on 7th July 2025. At the mention, the parties addressed me on the revision, Ms. Mutella for the Director of Public Prosecutions, Mr. Okutta for Bennandira Limited and Mr. Gatundu for the estate of late Benson Ndirangu. After hearing all the sides, I reserved the matter for ruling.

3. Revision is a judicial process allowed under sections 362 and 364 of the *Criminal Procedure Code*, Cap 75, Laws of Kenya. It allows examination of the record of the trial court, by the High Court, for the purpose of determining whether some order or decision had been made correctly, lawfully, properly and regularly. As the purpose of the revision, the court may hear the parties, and may also not hear them, but determine based on what it sees in the record sought to be revised.
4. The record, that I am invited to revise, is the order that the trial court made on 3rd September 2024. The said order targeted is Order No. 6, in the formal order, extracted from the order the court made on 3rd September 2024. So, what happened on 3rd September 2024?
5. A Motion was placed at the trial court, dated 3rd September 2024, from the office of the Director of Public Prosecutions. It sought a total of 5 principal orders:
 - a. an warrant to issue to the applicant, a detective or investigator, known as Chief Inspector of Police Nicholas Waringa, to access material relating to an account operated by Bennandira Limited, at Diamond Trust Bank, Busia branch;
 - b. an order compelling 5 of the respondents, named in the application, to nominate a person to make and give a certificate of electronic evidence under the *Evidence Act*, Cap 80, Laws of Kenya, in respect of electronically generated evidence or devices in the possession of the applicant;
 - c. an order compelling 5 of the respondents, named in that application, to each nominate a person to sign witness statements;
 - d. an order compelling the Registrar of Companies to issue the applicant with a certified true copy of the file of Bennandira Limited; and
 - e. an order compelling the Land Registrar, Busia, to issue the applicant, with true copies of the registration documents for Busia/Municipality/532, 533, 534 and 535.
6. That Motion was disposed of viva voce. The applicant, Chief Inspector of Police Waringa, made a sworn statement. He said that he wanted that application allowed. The court allowed it as prayed. A formal order was then extracted from that order of 3rd September 2024, bearing 6 substantive orders. It captured the 5 substantive prayers that I have recited above, but with an addition, that the tenants stop paying rent to Bennandira Limited, James Ndirangu Ng'ang'a or their agents, and that they instead pay the money into an account operated at Diamond Trust Bank, Busia, by Esther Ng'ang'a and Margaret Ng'ang'a. It is this additional or 6th order that the applicant, in this revision, is aggrieved about.
7. That additional order, in the formal order extracted from the orders of 3rd September 2024, was not prayed for in the Motion, date 3rd September 2024. Chief Inspector of Police Waringa did not talk about it when he testified in court on 3rd September 2024. Therefore, it was not orally prayed for in open court. From the handwritten notes of the trial court, in the original trial court file before me, does not have any notes of an order of that kind being made by the trial court. The only order made by the trial court reads:

“The Application is allowed as prayed.”



8. So, order No. 6 was not granted by the court, and it should not have appeared in the formal order extracted from the handwritten order of the court. It must have been sneaked into the formal order. Since it was never granted by the trial court, then the formal written order, extracted on 3rd September 2024, and signed by the trial court is irregular, unlawful and incorrect, and it was signed and issued improperly.
9. I, accordingly, in revision thereof, order that that formal order, of 3rd September 2024, be cancelled, and let the trial court issue a proper and correct order that conforms with the orders made by the trial court, based on the Motion, dated 3rd September 2024. The trial court records shall be returned to the trial court for compliance, while this revision file shall be closed. Orders accordingly.

DELIVERED, DATED AND SIGNED, IN OPEN COURT, AT BUSIA, ON THIS 18TH DAY OF JULY 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Ms. Mutella-Wainaina, instructed by the Director of Public Prosecutions, for the applicant.

Mr. Okutta, instructed by Ouma-Okutta & Company, Advocates for Bennandira Limited.

Mr. Gatundu, instructed by Gatundu & Company, Advocates for Margaret Wangoi Ng'ang'a.

