



**Sumac Microfinance Bank Limited v Gitau & 3 others (Commercial Appeal
E126 of 2023) [2025] KEHC 11005 (KLR) (Commercial and Tax) (24 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11005 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL APPEAL E126 OF 2023
BK NJOROGE & AS OSMAN, JJ
JULY 24, 2025**

BETWEEN

SUMAC MICROFINANCE BANK LIMITED APPELLANT

AND

PAUL MUGAI GITAU 1ST RESPONDENT

FRESPRO DAIRY LIMITED 2ND RESPONDENT

AHMED EDDLE IBRAHIM 3RD RESPONDENT

NATIONAL TRANSPORT AND SAFETY AUTHORITY 4TH RESPONDENT

RULING

1. This is a Ruling in respect to the application under a Certificate of urgency by way of a Notice of Motion dated 27/6/2025.

Background facts

2. The application seeks the following orders;
 1. Spent
 2. That this Honourable Court be pleased to review the Judgment and the consequential orders dated 13th March, 2025 for purposes of cancelling an error apparent on the face of the record in relation to the Motor Vehicle Registration Number by substituting KCY 541S with KCY 541W.
 3. That the Honourable Court be pleased to grant any other further relief as it may deem fit and necessary in the circumstances.



4. That the costs of this application be borne by the Respondent.
3. The application is supported by the Affidavit of George Laichena and Advocate practicing with the firm of M/s MMW Advocates LLP who appear for the Applicant.
4. The Court delivered a Judgment on 13/3/2025 determining the Appeal in this matter. Further to the orders granted, the Court directed that the 4th Respondent National Transport And Safety Authority (NTSA) registers a caveat against a Motor Vehicle KCY 541S, a subject matter in the Appeal.
5. This description of the Motor Vehicle is incorrect as the Motor Vehicle the subject matter of the dispute is KCY 541W and not KCY 541S.
6. Clearly this is a typographical error and an apparent error on the face of the record.
7. The Court is requested to effect this change by way of this review, so as to correct the error and clean up the record of the Court.
8. The application is not opposed.

Issues for Determination

9. The Court having read the application and written submissions, frames a single issue for determination;
 - a. Whether the error on the registration details of the subject motor vehicle can be amended by way of review.

Analysis

10. The power to be reviewed is provided by Section 80 of the [Civil Procedure Act](#) which states as follows;

80. Review

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.

11. Further Order 45 Rule 1 and 2 of the Civil Procedure Rules, Cap 21 of the Laws of Kenya, states as follows;

Application for review of decree or order [Order 45, rule 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.

- (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the appellate court the case on which he applies for the review.
12. The Court indeed does possess powers to review its own decisions to correct any errors. In *National Bank of Kenya Limited -vs- Ndungu Njau* [1977] KECA 71 (KLR) The Court of Appeal stated 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.”
13. The Court notes that the motor vehicle the subject of the Appeal is KCY 541W and not KCY 541S. This is a typographical error that resulted into an error on the face of the record. The same is readily apparent to the Court. It need not be elaborated. The application is also unopposed.
14. The Court is persuaded that the application is merited.
15. As to costs the same will be in the cause.

Determination

16. The application by way of Notice of Motion dated 27/6/2025 is allowed in the following terms.
- a. That this Honourable Court hereby reviews the Judgment and the consequential orders dated 13th March, 2025 for purposes of cancelling an error apparent on the face of the record in relation to the Motor Vehicle Registration Number by substituting KCY 541S with KCY 541W.
- b. That costs be in the cause.
17. It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 24TH DAY OF JULY, 2025

NJOROGE BENJAMIN K

JUDGE

In the presence of

Mr. Kibuthu holding brief for Mr. Laichena for the Appellant/Applicant

N/A for the Respondents

Mr. Luyai-Court Assistant

