



Amondi v Kenya Bureau of Standards & 2 others (Application E002 of 2024) [2024] KEHC 9138 (KLR) (19 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9138 (KLR)

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

APPLICATION E002 OF 2024

J NGAAH, J

JULY 19, 2024

BETWEEN

TOLUWALASSE AMONDI APPELLANT

AND

KENYA BUREAU OF STANDARDS 1ST RESPONDENT

NATIONAL STANDARDS COUNCIL 2ND RESPONDENT

THE CHAIRPERSON AND MEMBERS OF STANDARDS

TRIBUNAL 3RD RESPONDENT

RULING

1. The appellant has filed what he has described as “application for amendment of pleadings and court records”. The prayers in the “application” are somewhat convoluted and the best I can do in the circumstances is to reproduce them as they appear on the face of the application. They have been captured as follows:

“Issues and prayers

3. That, in view of the existing High Court Civil Division order of 8 December, 2022 (attached as Exhibit 1), and the inherent powers of the High Court, Judicial Review Division, as was established in Articles 21, 22, 47 and 159(2) of *the Constitution*, read with sections 3A, 19 of the *Civil Procedure Act*, and order 8, rules 1, 3, 4, 5, 7 of the Act, read with Supreme Court judgement and authority in “*Dande & 3 Others v Inspector General, National Police Service & 5 Others* (Petition 6 (E007), 4(0=e005) & (e010) of 2022 (Consolidated)) (2023) KESC 40 (KLR) (16 June 2023)(Judgment),” and other laws, regulations, and principles of law, the prayers are;



- a. That the court, issues ex-parte orders for amendment and correction of the parties court citations, in their existing appeal pleadings, annexures, exhibits, submissions and record of appeal, from the closed High Court Civil Case No. HCCA/E991 of 2022.
 - b. That upon the approval of this application, the court shall permit, that within 30 days or more, the parties shall amend, replace and re-submit again for hearing, their new judicial review case documents, amending only, the transferred and closed civil case HCCA/E991 of 2022 citations, to reflect the new High Court judicial review case number, which shall be assigned to this matter, by the court registrar.
 - c. That, this amendment, which shall be without costs to the appellant, shall correct the appellant's originating civil case HCCA/E991 of 2022 documents, which includes, but is not limited to correcting, the transferred civil appeal citations, for the existing notice of motion, application, memorandum of appeal, verifying and supporting affidavits, certificate of urgency, affidavits of service, list of authorities, submission, annexures, and related records of appeal, that was already mentioned before the High Court judicial review division, against the ruling of the 3rd respondent parties.
 - d. That the 1st and 2nd respondent parties, shall also amount, correct and re-submit for hearing, their defense pleadings, submissions, citations, exhibits, witness statement, affidavit, list of authorities, and other related records, which was already submitted, by the counsel to the 1st and 2nd respondents, during the proceedings at the High Court Civil Case HCCA/E991 of 2022, and was also mentioned twice, but declined for hearing, and was withdrawn and closed on 7 December, 2023, before Justice Jairus Ngaah, at Judicial Review division, Case No. 6 of 2023 (attached as exhibit 2).
 - e. Any other orders, that is required in the interest of justice.”
2. To the extent that I understand the appellant, he seeks his pleadings in High Court Civil Case No. E991 of 2022 to be adopted as a fresh suit in the instant application suit.
 3. Civil Suit No. E991 of 2022 which was initially in the Civil Division of this Honourable Court but subsequently transferred to the Judicial Review Division and registered as Application No. 6 of 2023 was an appeal against the ruling of the Standards Tribunal. The Tribunal is established under section 16A of the *Standards Act*, cap. 496 to, among other things, hear and determine appeals against decisions or acts made under the Act. Appeals against the decisions of the Tribunal would be made to this Honourable Court under section 16G of the Act which reads as follows:

16G. Appeal from Tribunal to Court

A party to proceedings before the Tribunal may appeal the decision of the Tribunal to the High Court.



4. Apparently, it is this provision of the law which the appellant invoked when he filed an appeal against a decision of the Tribunal in the Civil Division. The appeal was filed as a motion in which the appellant prayed for the following orders:

- “1. That the Appellant attached the Memorandum of Appeal, Application, supporting affidavit, bundle of documents and Annexures 16 to 32, and a certificate of urgency, and that this Appeal, be certified as urgent, and heard ex-parte by the Court; and that service of documents be dispensed with, in the first instance.
2. That this Appeal be allowed with statutory and punitive costs, and for all the proceedings at the Commission on Administrative Justice, Standards Tribunal Court and the High Court.
3. That the Ruling and orders of the Standards Tribunal, that was delivered on the 25th November, 2022, is hereby set aside, reversed and declared as illegal, unconstitutional, thereby null and void.
4. That the Court issues Mandamus orders, for the unqualified re-instatement of the Appellant’s valid membership and Chairman appointment, with benefits and apologies, at the National Standards Technical Committee 148, and also my membership with the Standards National Quality Institute.
5. That the Court orders, for the immediate quashing and reversal, of the false, illegal and fraudulent revocation letter, dated 26th October, 2020, which was reviewed illegally by the 3rd Respondents, without any statutory and mandatory sworn affidavits from the 1st and 2nd Respondents, and their absconded false and indicted agents, from ISACA Kenya and ISACA International U.S.A.
6. That a preservation and prohibition order issues permanently, against Preston Odera, and several of his associates, agents and staff, which prohibits their fraudulent conduct and damages caused to the Appellant, members and partners of ISACA Kenya; and mandates those indicted agents of the 1st and 2nd Respondents, to immediately cease from managing, transacting, recording, expending or acting in any manner whatsoever, with the statutory and regulatory affairs of ISACA Kenya.
7. That the Court’s preservation and prohibition orders, enjoins the indicted parties, to immediately return, and relinquish to the Appellant and his Bylaws Committee, as was approved by the Registrar of Societies, in the ISACA Kenya Constitution of 1999 (Annexure 16), all our ISACA Kenya and ISACA International, U.S.A, organizational records, documents, assets, proprietary information, financials, banking and mobile money accounts signatory mandates, membership rights, welfare requests and trainings, general and special meetings mandated by Law, from Years 2000, and thereafter.
8. The Court issues Certiorari Orders, for the immediate committal, suspension and quashing of ALL publicly gazetted National Standards Regulations, Reports and Policies, which had been illegally procured by the 1st and 2nd Respondents, while willfully violating Section 9(6) of the Standards Tribunal



(Practice and Procedure) Rules, with Section 107 of the Evidence Act, Section 108 of Penal Code ACT, and Sections 45,46,47 of the Anti-Corruption and Economic Crimes ACT.

9. That the Court issues the first compensatory and punitive costs payment of Kes4,000,000 (four million kenya shillings), to the Appellant, with interest costs, and is personally recoverable against the Managing Director- Bernard Njiraini and Chairperson- Edward Njoroge, of the 1st and 2nd Respondents, which is for their repeated violations of the Standards ACT/Tribunal Rules, Access to Information ACT, and the Supreme Court and Court of Appeal Judgments, which had settled and affirmed the Jurisdiction of the Standards Tribunal Court.
 10. That the Court issues mandamus orders, for the enjoinder of third-parties Respondents and interested parties, and their production of documents, affidavits, witness statements and minutes of meetings, regulations, policies and reports, as was prayed in my pleadings and paragraphs 6b and 11b of my submission, which opposed the preliminary objection, and was dated 21st October, 2022.
 11. That the Court, after the Hearing, issues several protections and monetary compensation and prohibition orders, against the 1st, 2nd Respondents and their enjoined third-parties, for their malicious violations and infringements of the Appellants and ISACA Kenya members, Constitutional Rights and fundamental Freedoms, as was guaranteed in the Constitution and several other enabling laws.
 12. That the Court, issues binding directions after Hearings, for the defense pleadings, sentencing and conviction of the enjoined parties by another properly constituted panel of impartial, diligent and competent Standards Tribunal officials, who shall be competitively recruited by the Judicial Service Commission or any other authority, recognized under the new Tribunals Court ACT.
 13. Any other orders and costs, which the High Court, should grant in the interest of justice.”
5. On 7 December 2023 the appellant withdrew the suit. However, going by the prayers in his application, it is the same suit that the applicant wants to be converted and adopted by this Honourable Court as a fresh suit or an appeal.
 6. As much as I am aware that the applicant is acting in person, that in itself, is not a reason enough for the court to proceed on the assumption that pleadings and affidavits in a suit or an appeal that has been withdrawn can be reintroduced as pleadings and affidavits in fresh suit or appeal and adopted as such. Any suit or appeal filed by a party subsequent to withdrawal of a previous suit or appeal is distinct and independent of the previous suit or appeal. Although the depositions in the affidavits and averments in the pleadings in the previous suit might be similar to those in the subsequent suit, the documents filed in the previous suit, including affidavits and pleadings, cannot be assumed to be the documents in a subsequent suit which a party files or ought to file.
 7. It follows that if the applicant was intent on filing a fresh suit or appeal, he ought to have filed a fresh suit complete with fresh pleadings and affidavits independent of his previous suit. It does not matter



that the averment and depositions in that in the previous suit or appeal may be similar to those in the subsequent suit or appeal.

8. For these reason, I would dismiss the appellant's application as being misconceived and an abuse of the due process of the court. The application is hereby dismissed but considering that the applicant is acting in person, I order that parties bear their respective costs. It is so ordered.

SIGNED, DATED AND DELIVERED ON 19 JULY 2024

NGAAH JAIRUS

JUDGE

