



Baaru & another v Kenya Bus Service Limited (also known as Stage Coach Bus International) & another (Civil Case 154 of 1999) [2023] KEHC 19111 (KLR) (Civ) (21 June 2023) (Directions)

Neutral citation: [2023] KEHC 19111 (KLR)

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

CIVIL

CIVIL CASE 154 OF 1999

AN ONGERI, J

JUNE 21, 2023

BETWEEN

PITTY GATHIGIA BAARU 1ST PLAINTIFF

J. GACHERU NDUGI 2ND PLAINTIFF

AND

**KENYA BUS SERVICE LIMITED (ALSO KNOWN AS STAGE COACH BUS
INTERNATIONAL) 1ST DEFENDANT**

CHARLES OBIERO OGOLA 2ND DEFENDANT

DIRECTIONS

- 1) The Court of Appeal in its ruling dated July 19, 2019 referred this case back to the High Court only for purpose of taking additional evidence from the plaintiff in respect of future medical treatment.
- 2) The ruling specifically stated as follows in paragraph 21
 - “(i) This matter be listed before the High Court for purposes of taking the additional evidence.
 - (ii) The applicant to adduce the additional evidence before the High Court and the respondent to be at liberty to cross-examine and test the veracity of the additional evidence.”
- 3) The application dated November 13, 2018 was made under rules 29,42(1)(20) and 43(1) of the *Court of Appeal*.
Rule 29(i) states as follows,



“29(i) on any appeal from the decision of the superior court acting in the exercise of its original jurisdiction, the court shall have power

- a) To re-appraise the evidence and to draw inference of facts, and
- b) In its discretion, for sufficient reason, to take additional evidence or to direct that additional evidence be taken by the trial court or by a commissioner.”

- 4) I find that the mandate of this court is to take the additional evidence and to submit the same to the Court of Appeal where the case is pending appeal.
- 5) I accordingly overrule Mr Mereka’s submissions seeking that this court makes a ruling on the evidence adduced.
- 6) Since the additional evidence has been typed, I direct that the same be submitted to the Court of Appeal forthwith as directed in the ruling dated July 19, 2019 through a supplementary record of appeal.

DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 21ST DAY OF JUNE, 2023.

.....

A. N. ONGERI

JUDGE

In the presence of:

..... **for the 1st Plaintiff**

..... **for the 2nd Plaintiff**

..... **for the 1st Defendant**

..... **for the 2nd Defendant**

