Wafula v Abdi alias Nazra Saney (Civil Appeal E084 of 2022)
[2023] KEHC 19754 (KLR) (3 July 2023) (Ruling)

Neutral citation: [2023] KEHC 19754 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MAKUENI

CIVIL APPEAL E084 OF 2022

TM MATHEKA, J

JULY 3, 2023

BETWEEN

ISAAC SHEM WAFULA ..... APPELLANT

AND

NASRA SANEY ABDI ALIAS NAZRA SANEY ..... RESPONDENT

RULING

1. On 25/11/2021, the applicant moved this court to stay the execution of the judgment in Makindu SPMCC no 326 of 2019 delivered on 27/10/2021.

2. On 31/01/2022, this court (Dulu J), dealt with the application and granted stay of execution pending appeal provided that the appellant would pay to the respondent, through counsel, the sum of Kshs 800,000/= within 30 days from 31/01/2022 in default the stay would automatically lapse.

3. On 11/05/2022, parties appeared before court for further directions and the applicant appellant applied for 45 days to file the record of appeal giving the reason that he had not obtained the typed proceedings. The matter was scheduled for mention on 05/07/2022.

4. On 05/07/2022, the appellants counsel informed court that they had not received the typed proceedings and requested for a further 60 days. The respondent's counsel complained that the appellant was dragging his feet and informed court that the appellant had not complied with interim orders. The Judge granted the appellant a further 40 days to file Record of Appeal and fixed the matter for 24th October 2022 for mention.

5. On 24/10/2022, the appellant's counsel did not attend court and the appeal was dismissed for want of prosecution.

6. The appellant has now brought the application dated 09/11/2022 under certificate of urgency under Sections 1A, 1B & 3A of the *Civil Procedure Act* (CPA) Cap 21 LoK , Order 42 Rule 6(2)(b) and 42, Rule 21 of the *Civil Procedure Rules* (CPR)2010 seeking following orders;

    a. That this honorable court be pleased to set aside its orders of 24/10/2022 dismissing the appellants appeal for non-attendance.

    b. That this honorable court be pleased to reinstate the appellant's appeal dismissed for non-attendance on 24/10/2022.

    c. That this honorable court be pleased to order stay of execution of the judgment and decree in Makindu SPMCC No. 326 of 2019 pending the hearing and determination of this application.

    d. That this honorable court be pleased to order stay of execution of the judgment and decree in Makindu SPMCC No. 326 of 2019 pending the hearing and determination of this appeal.

    e. That the costs of this application be in the cause.

7. The application is supported by the grounds on its face and the Affidavit of Counsel Gabriel Kimando Maina sworn on the same day. He depones that on 24/10/2022, he instructed a clerk known as Mr. Mutuku to find an Advocate to hold his brief but he failed to do so thus leading to dismissal of the appeal for non-attendance. That his instructions to the clerk were that he had not received the lower court proceedings and copy of decree and was therefore

    requesting for 30 more days to file the record of appeal. An excerpt of text message to Mr. Mutuku is exhibited as GKM-1.

8. He depones that despite requesting for the relevant documents from Makindu Law Courts, he is yet to receive them because typing of proceedings is yet to be concluded. A bundle of letters and Invoice are exhibited as GKM-2.

9. He depones that his efforts to contact Mr. Mutuku on the afternoon of 24/10/2022, to establish the directions issued by court, were futile and his calls were declined. That on 25/10/2022, Mr. Mutuku undertook to give him feedback via email by close of business that day but he failed to do so and attempts to reach him were futile. That from 25/10/2022 to the time of drafting this application, his attempts to contact Mr. Mutuku were futile.

10. That he was shocked to later learn that Mr. Mutuku did not attend the mention on 24/10/2022 and that the appeal had been dismissed. That on 07/11/2022, he received warrants of execution and proclamation of attachment which had been served upon the appellant's insurer. Copies of the same are exhibited as GKM-3.

11. He depones that his absence in court on 24/10/2022 was inadvertent and not aimed at obstructing justice.

12. Further, he depones that on 31/01/2022, this court granted the appellant a stay of execution pending the hearing and determination of the appeal on condition that the appellant would release Kshs 800,000/= to the respondent's Advocates within 30 days. That the amount was released on 31/03/2022 albeit slightly later that the 30 days ordered by court and the delay is attributed to the Appellant's Insurer's bureaucratic procedures required before release of any money. Proof of payment is exhibited as GKM-4.

13. He depones that there was no delay in filing this application and that the respondent will not suffer any prejudice if it is allowed. That unless this court intervenes, the appellant shall be condemned to pay an enormous decretal sum without being heard on merit.

14. The application is opposed through the respondent's Replying Affidavit sworn on 27/01/2023. It is deposed that the application has been brought in bad faith and with material non-disclosure thus should be dismissed summarily. That from the onset, the applicant has been recalcitrant and shown a penchant for disregard of the orders of this court. That the applicant has not bothered to explain the delay of close to three weeks in filing this application and the explanation given for failing to attend court on 24/10/2022 is not convincing or sufficient at all. That the applicant has not bothered to explain why counsel failed to attend court and why counsel chose to instruct a clerk rather than an advocate. That the clerk owed no duty, whether legal or professional, to the appellant/ applicant or his counsel.

15. Further, that no explanation has been given as to why the applicant's counsel failed to attend court virtually yet his counsel (respondent's) attended virtually. That from annexure GKM-2, it is evident that the firm of advocates on record for the applicant has at least two other advocates and no explanation has been given as to why none of them could attend court, at the very least, through the virtual platform. That from annexure GKM-1, the instructions were sent to the clerk on a Friday and there is no evidence that the applicant's counsel followed up with the clerk on the material day to remind him to attend court.

16. It is deponed that the only reason why the applicant rushed to court with this application is the fact that he was served with a proclamation notice. That the proclamation notice was served on

    27/10/2022 and the application was filed on 11/11/2022. That the application conveniently fails to mention when the counsel learnt that the clerk did not attend court. That there is also no evidence of the efforts made by the applicant's counsel to follow up with the court to ascertain the outcome. That if the said clerk became unresponsive, there was a host of other options including checking the court tracking system. Consequently, he depones that failure to attend court was not inadvertent and is not a mistake that is excusable.

17. It is deponed that the issue of stay of execution is res judicata as the court dealt with it on 31/01/2022 and gave a conditional stay. That having failed to comply with the conditions granted, the applicant cannot seek stay of execution afresh. That the applicant did not move court for extension of time when he learnt that he would be unable to comply with the timeline. That his advocates wrote to the applicant's advocates on 18/03/2022 giving them time to comply but they failed to respond. That if indeed the depositions on reason for non-compliance are true, they should have responded to the letter stating as much. Further, she depones that the said reasons were not given when parties attended court on 11/05/2022. A copy of the letter is exhibited as NSA-1.

18. It is further deponed that even if the applicant is yet to obtain proceedings and decree, he has not been diligent in filing the record of appeal and no real effort has been demonstrated in following up with the trial court. That apart from the letter dated 03/02/2022 (GKM-2), there is no evidence of further follow up. That the letter dated 29/08/2022 is not received by the lower court and there is no evidence that it was sent to the court via email. That the applicant did not bother to pay for the decree.

19. It is further, deponed that the invoice sent to the applicant was produced on 16/09/2022, the applicant failed to pay the court fees and the same were paid by the respondent's advocates on 20/09/2022. A copy of the payment receipt is exhibited as NSA-2.

20. The respondent depones that, from the foregoing, the applicant has failed in all respects of the appeal and has done so through sheer inaction and laxity. That from his conduct, he is unworthy of the court's discretion.

21. That if the application is allowed, the respondent will be greatly prejudiced as she was severely injured and sustained incapacitating injuries. That allowing the application will aggravate her condition further considering that she has complied with the court orders. That no prejudice will be suffered by the applicant if the application is dismissed as the blame rests squarely on his feet. That he was given an opportunity to present his case and he deliberately squandered it.

22. The application was canvassed through written submissions.

Applicant's Submissions

23. With regard to the merits of the application, the applicant relies on section 3A of the *CPA* for the submission that this honorable court has limitless and unencumbered discretion to grant the prayers sought. He has also relied on the case of *Mbogo & Another –v– Shah*, [1968] EA 93 where the Court of Appeal of East Africa stated (page 95 par 4);

> "Whether in the light of all the facts and circumstances both prior and subsequent and of the respective merits of the parties, it would be just and reasonable to set aside or vary the judgment, if necessary, upon terms to be imposed."

24. He has also relied on *Richard Ncharpi Leiyagu v Independent Electoral and Boundaries Commission & 2 Others* (2013) eKLR where the Court of Appeal stated;

> "We agree with those noble principles *[Mbogo & Another v Shah*, EALR 1968 page 13] which go further to establish that the court's discretion to set aside an ex-parte judgment or order for that matter, is intended to avoid injustice or hardship resulting from an accident, inadvertence or inexcusable mistake or error but not to assist a person who deliberately seeks to obstruct or delay the course of justice".

25. He submits that the circumstances leading to non-attendance by his counsel have been set out in the supporting affidavit and that the purpose of sending Mr. Mutuku physically was intended to ensure attendance and avoid any difficulty that may be caused by technical hitches.

26. He submits that the principles governing the exercise of court's discretion are intended to avoid injustice or hardship resulting from; accident, inadvertence, excusable mistake or error. He contends that his counsel's only mistake was to trust Mr. Mutuku. Further, he contends that the excusable mistake should not be visited on him. He relies on *Wilson Cheboi Yego v Samuel Kipsang Cheboi* (2019) eKLR where Court of Appeal stated;

> "In the present case it is clear that failure to attend court was a mistake of the applicant's counsel who swore an affidavit averring the circumstances surrounding his failure to attend court. Although counsel for the applicant has not annexed a copy of the Court's cause list proving that Eldoret Court of Appeal Civil Application No 93 of 2018 was listed for hearing on 5th December, 2018, it is notable that the instant application was lodged a day after the

dismissal of the appeal. We are guided by the dicta in the case of *Philip Chemwolo & Another v Augustine Kubende*, [1986] eKLR where Apaloo, JA (as he then was) stated:

> "Blunders will continue to be made from time to time and it does not follow that because a mistake has been made that a party should suffer the penalty of not having his case determined on its merit. I think the broad equity approach to this matter is that unless there is fraud or intention to overreach, there is no error or default that cannot be put right by payment of costs. The court, as is often said, exists for the purpose of deciding the rights of the parties and not for the purpose of imposing discipline".

(12) Having considered the submissions by the applicant and the respondent, we find that in the circumstances of this application, sufficient reason has been given for the applicant's counsel's non-attendance on 4th December, 2018. The applicant has therefore complied with the requirements for the grant of an order reinstating his appeal."

27. On whether the orders of stay should be granted, he submits that the respondent's advocates have already commenced execution and he is apprehensive that the respondent will enforce the erroneous award thereby rendering the appeal nugatory. Further, he submits that he is reasonably fearful that the respondent will be unable to pay back the decretal sum if the appeal succeeds. He relies on *James Wangalwa & Another v Agnes Naliaka Cheseto* (2012) eKLR where the court stated that;

> " ...The applicant must establish other factors which show that the execution will create a state of affairs that will irreparably affect or negate the very essential core of the Applicant as the successful party in the appeal. This is what substantial loss would entail..."

28. He submits that there is no evidence in the entire Replying Affidavit showing that the respondent can refund the decretal sum if the appeal succeeds.

29. Further, he submits that this application has been made without undue delay and has urged this Court to deem the security for costs (Ksh 800,000/=) as having been remitted on time.

Submissions by the Respondent

30. As regards notice of the proceedings, the respondent relies on paragraph 3 of the Supporting Affidavit for the submission that the applicant was aware of the mention scheduled on 24/10/2022. She submits that the date was taken by consent and as such, the proceedings and order are akin to a regular judgment and cannot be set aside as a matter of justice. She contends that the applicant must demonstrate sufficient reason for the court to exercise its discretion in his favor.

31. With regard to the reason given for no-attendance, she has reiterated the contents of her Replying Affidavit and further placed reliance on *Valentine Omollo Ongeso v Kennedy Ondenge* [2021] eKLR where the Court rendered itself thus:

> "I have considered the application, supporting affidavit of Helen Adoyo Kuke and the replying affidavit of David Owino Omollo and do find that the applicant's counsel has not demonstrated that there was any hardship in attending court on the scheduled date. Strangely, she sent a clerk to place the matter aside instead of attending court. How can an advocate send a clerk to place a matter aside? Definitely the clerk has no audience in court and in this case the advocate put the poor clerk in a predicament because he is not authorised to address the court. The counsel for Applicant states that the clerk and the secretary sat on the file but there is no evidence of any disciplinary action against the clerk.

This is a clear case of dereliction of duty by the advocate as she could have instructed another advocate to hold brief and explain any predicament."

32. She has also relied on *Monarch Insurance Company Ltd v Christine Nyarangi Osilimong (suing as a legal representative of the estate of Francis Osilimong Obwana- deceased)* [2020] eKLR where the Court stated:

> " There was no way an advocate would have been given instructions by an advocate's clerk to hold brief. The identity of the advocate has not been disclosed. This is a practice that has no legal basis and it exposes an advocate receiving such instructions to legal proceedings should he acted erroneously based on the "instructions" from a clerk.

33. The respondent submits that there is no affidavit from the alleged clerk supporting the averments by the applicant and it has not been stated that the clerk refused to swear such affidavit. She relies on *Were v Gardison & 3 Others* (Environment and Land Appeal E004 of 2021) [2022] KEELC 4797 (KLR) where the stated:

> " 15. The reason advanced by the appellant's advocate to explain failure to attend court is that he was ill on February 4, 2020 and that he had instructed his clerk to get someone to hold his brief. While being sick is a normal occurrence, the circumstances surrounding this case call for more scrutiny. The name of the clerk who was instructed is not given. No affidavit was sworn by the said clerk to verify the instructions and the alleged failure by the clerk to instruct another advocate. Despite the fact that the appellant had to file a formal application seeking setting aside, the appellant did not find it necessary to avail any medical evidence to support the allegation of illness."

34. The respondent submits that since the applicant is seeking an equitable remedy, it was incumbent upon him to approach the court with clean hands and that cannot be said to be the case as it is clear that he either concealed pertinent information deliberately or is blatantly lying to the court.

35. As to whether the reason advanced was a mistake or not, the respondent submits that it is actually a dereliction of duty and is certainly not excusable. She submits that counsel bears the primary duty to attend court yet no reason has been given as to why counsel could not attend court either physically or virtually. She agrees that it is impractical for counsel to attend all courts but contends that sufficient reason must be given where counsel is unable to.

36. She submits that the case of Wilson Cheboi (supra), relied upon by the applicant, is distinguishable and inapplicable in our case because in that case, a reasonable explanation was given by counsel for failure to attend court i.e. that he received two hearing notices and mis-diarised the hearing date. She relies on Monarch Insurance Company Ltd (*supra*) where the Court stated;

> " d) The averment that the mistake of a counsel should not be visited on a client has become a tired and gravely abused cliché. All manner of incompetence is cleverly tucked in so as to persuade the court to be sympathetic. It is time that parties should institute proceedings against their advocates who fail to act without a good cause. It is also time that parties should carefully vet advocates before instructing them for they will be responsible for their choices."

37. With regard to 'Mistake of Counsel' cited by the applicant, the respondent submits that the position urged is not the correct one in law and it does not hold sway anymore. She relies on *Rajesh Rughani v Fifty Investments Limited & Another* [2016] eKLR at pages 5 and 6 held as follows:

> "In *Habo Agencies Limited v Wilfred Odhiambo Musingo* [2015] eKLR this Court stated that it is not enough for a party in litigation to simply blame the advocate on record for all manner of transgressions in the conduct of litigation. Courts have always emphasized that the parties have a responsibility to show interest in and to follow up their cases even when they are represented by counsel. In *Mwangi v Kariuki* (199) LLR 2632 (CAK) Shah, JA ruled that mere inaction by counsel should only support a refusal to exercise discretion if coupled with a litigant's careless attitude. In the instant case, there is nothing on record to show what action the appellant took between 24th October 1998 and 7th April 2005 to ensure that the suit he had filed at the High Court was prosecuted. There is no credible explanation for the delay by the appellant's former advocate.

Our re-evaluation of the record leads us to conclude that no credible, satisfactory and sufficient explanation for delay has been given. It is insufficient to blame previous counsel on record without an explanation as to the action taken by the litigant to show he did not condone or collude in the delay."

38. As to whether the applicant is deserving of this court's discretion, the respondent submits in the negative and reiterates that the applicant came to this court with unclean hands, has acted indolently and in bad faith throughout the proceedings. She submits that the applicant has never complied with a single order of this court. Further, she submits that even the delay of more than two weeks in filing this application has not been explained. She contends that delay has to be explained irrespective of the length. She relies on *Nairobi City County v Salima Enterprises Limited* [2020] eKLR where Ouko, JA (as he was then), held that even a day's delay ought to be sufficiently explained.

39. With regard to the prayer for stay of execution, she submits that the same is not tenable because, firstly, there is no appeal in existence. She relies on the case of *Rosalindi Wanjiku Macharia v James Kiingati Kimani (suing as the legal representative of the estate of Martin Muiruri (deceased)* [2017] eKLR where the Court (Meoli J) stated as follows:

> "24. In my view, even if the prayer to appeal out of time had been granted, and the said prayer for stay pleaded in the Motion, it would still have failed for the reason that the existence of an appeal is a condition precedent to the exercise of this court's discretion under Order 42 Rule 6 (1) of the *Civil Procedure Rules*. This can be inferred from the wording of the rule.....
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> 26. It would seem that the invocation of the jurisdiction of this court under Order 42 Rule 6 (1) or 6 (6) of the *Civil Procedure Rules* must be preceded by the filing of an appeal, or compliance with the procedure for filing appeal, in this case a memorandum of appeal (See Order 42 Rule 1 of the *Civil Procedure Rules*). Until the Memorandum of Appeal is filed, the court would be acting in vacuo by granting a stay of execution pending appeal."

40. Secondly, she submits that the prayer for stay of execution is res judicata in light of the orders made on 31/01/2022. She submits that section 7 of the *CPA* precludes a court from trying not only a suit but also an issue that has already been tried and determined. She relies on *Uhuru Highway Development Limited v Central Bank of Kenya & 2 Others* [1996] eKLR where the Court of Appeal held that the doctrine of res judicata also applies to interlocutory proceedings. She submits that the applicant should

have applied for reinstatement of the orders made on 31/01/2022 instead of filing another application for stay.

41. Further, she submits that since the stay orders lapsed automatically after the applicant's failure to comply, this court cannot extend them.

42. As regards the prejudice to be suffered, she submits that any prejudice suffered by applicant is wholly attributable to his conduct. That the applicant has, to date, never filed the record of appeal and has not demonstrated an immediate intention to do so. That what the applicant has demonstrated is an intention to delay this matter as much as possible. That even if the court was to believe that the delay is attributable to his counsel, the applicant has not demonstrated that he followed up his case and did not condone the delay.

43. On the other hand, she submits that she will suffer great prejudice as she has been diligent in pursuing her case. That she has complied with all the orders and has faithfully done what was required of her. She relies on P*aulina Kikwai Langat v County Government of Bomet & Another* [2016] eKLR where the court held:

> "It is in my view unfair for a party to be properly served, do absolutely nothing about it; be informed of the matter proceeding, and do absolutely nothing about it; be informed of the judgment and do nothing, then later come to try and return the plaintiff to the starting blocks. An applicant in such instance must really demonstrate special circumstances before successfully setting aside the judgment. In as much as the court must endeavour to hear parties on merits, it must be understood that the sword of justice cuts both ways."

44. She has also relied on *Nicholas Kiptoo Arap Korir Salat v Independent Electoral and Boundaries Commission & 6 Others* [2013] eKLR where the court held that:

> "I am not in the least persuaded that Article 159 of the *Constitution* and the Oxygen Principles which both command Courts to seek to do substantial justice in an efficient, proportionate and cost effective manner...were ever meant to aid in the overthrow or destruction of rules of procedure and to create an anarchical free-for-all in the administration of justice...it is in the even-handed and dispassionate application of rules that Courts give assurance that there is clear method in the manner in which things are done so that outcomes can be anticipated with a measure of confidence, certainty and clarity."

45. She submits that the injustice which she will suffer if the application is allowed cannot be compensated by an award of costs. That she suffered life altering and incapacitating injuries and the applicant wants to prolong her suffering unnecessarily.

Analysis

46. I have carefully considered the application, the affidavits and rival submissions and the question to answer upon reflection of the requisite grounds is whether the application is merited.

47. I have carefully considered the record, the rival affidavits and submissions. As correctly submitted by the parties, this court has been called upon to exercise its discretion. The principles for the exercise of this discretion judiciously have been elaborately set out in the authorities set out by the parties, and of course in numerous judicial pronouncements. In the words of the Court of Appeal in the Richard

Ncharpi Leiyagu case (*supra*), the discretion "...is intended to avoid injustice or hardship resulting from an accident,

> inadvertence or inexcusable mistake or error but not to assist a person who deliberately seeks to obstruct or delay the course of justice."

48. Is there any explanation as to why counsel did not attend court on the 24th October 2022? None is given at all. The attempt to lay blame on one Albanus Mutuku is ingenious as the first responsibility for counsel is to give a reason for his failure to attend court. None is given,

49. Can the excuse that he sent a clerk to look for an advocate to hold his brief hold water as an explanation? No. A clerk has no audience with the court. In the event that there is no advocate in court that day, what was he to do? In any event the said clerk has not sworn any affidavit to explain what transpired. There nothing before court to confirm that Mr. Mutua received the said instructions or what he did. On this I agree with my brother judges in Valentine Omollo Ongeso and Monarch Insurance Company Ltd above; the story about the clerk is not an explanation for failure by counsel to attend court.

50. In addition, it is in the public domain that since the covid pandemic the Judiciary operates a hybrid system where court proceedings take place both virtually and physically and virtually. In fact, the record shows that proceedings were done virtually on the material day. Things have been made so easy that it is now possible to attend court from anywhere as long as one has an internet connection. As correctly submitted by the respondent, the letter head of the firm representing the applicant shows that there are three advocates in that firm yet no reason was given as to why none of them could attend court, at the very least, through the virtual platform. In my view, failure to explain their whereabouts on the material day can only mean that there is no reason.

51. The applicant relied on the Wilson Cheboi above, but as submitted by the respondent that indeed, that case is distinguishable because in that case a convincing reason was given by the counsel for his failure to attend court unlike in this case where no reason was advanced, let alone a sufficient one.

52. What about the alleged delay in obtaining typed proceedings? The record speaks for itself. The applicant's counsel has not exhibited industry in pursuing the same. The judgment appealed against was delivered on 27/10/2021 and the first letter requesting for judgment and proceedings was received by the trial court on 07/02/2022. While it is my view that once the request has been received by the court, the court ought to let the party know when the proceedings are ready, the party also has the duty of following up on the same.

53. This lack of industry was replicated in the pursuit of the decree. The applicant has exhibited another letter, dated 29/08/2022, requesting for the decree and undertaking to pay requisite charges. However, the respondent has demonstrated that after an invoice was generated on 16/09/2022, the applicant neglected to make the payment and the respondent's counsel eventually paid on 20/09/2022. Evidently, the applicant's conduct does inspire a conclusion that he had any urgency in prosecuting this appeal.

54. It is also noteworthy that this application was filed on 11/11/2022, approximately two weeks after dismissal of the appeal. It is evident that the applicant was jolted into action after being served with the proclamation notice.

55. Was there an excusable mistake of counsel that ought not to be visited on the client? I have anxiously considered the record and the submissions with respect to this question. For the court to arrive at the conclusion that there could have been mistake of counsel, there ought to be an explanation. In this case there is none the series of non-action demonstrated above. The Kiswahili adage that kosa si kosa,

kosa ni kurudia kosa sits well in this case as we ask the question Where is the mistake? Counsel sought for and was granted conditional interim stay orders. The same must have been communicated to the appellant. The compliance with the condition given by the court came long after the interim order of stay granted had lapsed for noncompliance. No attempt was made at seeking extension of those orders. Where is the mistake there? The issue of filing the record of appeal- the court gave time and extended the same but nothing was forth coming. Where was the mistake there? Then the failure to attend court- where is the mistake? And complete failure to give an explanation for the failure to attend court. The prayer for stay of execution is not tenable. The same was granted and as I have indicated herein above the same was conditional and it automatically lapsed when the applicant failed to comply within the given timeline. The applicant's counsel did not deem it fit to apply for extension.

56. While I am alive to the constitutional edict at Article 159, this is one of those cases where the other side of the sword that is the interests of justice has to fall on. Consequent to the foregoing it is my considered view that the application is not merited and the same is dismissed with costs to the respondent.

DATED SIGNED AND DELIVERED VIRTUALLY THIS 3RD JULY 2023

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MUMBUA T MATHEKA

JUDGE

Applicant's Advocates Mr. Maina

Eboso & Co. Advocates

Respondent's Advocates; Mr. Mutua

SN Ngare & Co Advocates: