



**Njogu v Republic (Criminal Miscellaneous Application 63 of 2020)  
[2023] KEHC 22533 (KLR) (21 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22533 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL MISCELLANEOUS APPLICATION 63 OF 2020**

**HM NYAGA, J  
SEPTEMBER 21, 2023**

**BETWEEN**

**JAMES MWAURA NJOGU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. In my Ruling delivered on 18<sup>th</sup> Mary 2023, I had sought to find out if the applicant’s Appeal in the Court of Appeal had been dismissed, it was still pending.
2. According to the Officer in Charge Criminal Registry, efforts to trace the decision of the Court of Appeal bore no fruits. However, the officer has now been able to locate the register and it shows that the Appeal to the Court of Appeal was dismissed on February 5, 2016. It is thus clear that there is no existing Appeal in the said court.
3. Further, it is noted that the decision to dismiss the Appeal was made prior to the decisions in *Francis Muruatetu and Another vs Republic* [2017] eKLR (Muruatetu 1) and *Francis Muruatetu and Another vs Republic* [2021] eKLR (Muruatetu 2).
4. In the process of looking at the Court of Appeal records new information has emerged. The applicant had initially filed High Court Miscellaneous Application No 143 of 2018 at Nakuru High Court. The Application was then transferred to the High Court at Narok and it became Miscellaneous Application No. 101 of 2018. High Court at Narok transferred the file back to Nakuru. The file was then registered at Miscellaneous Application No 63 of 2020.
5. The reason why the file was transferred to this court was to enable the applicant “follow up on his file”. It is not clear which file he was referring to, but it is likely to have been the High Court Criminal Appeal No 65 of 2007. The same had been consolidated for hearing with High Court Criminal Appeals No 66 of 2007 and High Court Criminal Appeal No 67 of 2007.



6. At the moment, all the 3 appeal files have been traced. The original court record from the Chief Magistrate's Court, Narok is also available. The purpose of which this file was transferred to this court has been served. Currently there is a High Court at Narok, which supervises the Chief Magistrate's Court at Narok. For purposes of jurisdiction, the High Court at Narok ought to handle the Application.
7. I therefore direct that the entire file which consists of;
  - a. Court file in Narok Chief Magistrate's Court Criminal Case No 615 of 2004.
  - b. High Court Criminal Appeals Number 65, 66 and 67 of 2007.
  - c. Extract of the result on the Court of Appeal Criminal Appeal No 214 of 2009 be transferred back to Narok High Court on October 2, 2022.
  - d. The Deputy Registrar Nakuru High Court to ensure that all the files in this application are transferred there on time.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 21<sup>ST</sup> OF SEPTEMBER, 2023.**

**H. M. NYAGA**

**JUDGE**

In the presence of;

Ms Murunga for state

Applicant present

