



**Kiwasco (Kisumu Water & Sanitation Company Ltd) v Mc Tough (Civil Appeal E051 of 2021) [2023] KEHC 23790 (KLR) (16 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23790 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CIVIL APPEAL E051 OF 2021  
RE ABURILI, J  
OCTOBER 16, 2023**

**BETWEEN**

**KIWASCO (KISUMU WATER & SANITATION COMPANY LTD)COMPANY LTD ..... APPELLANT**

**AND**

**WILLIAM ROMAN MC TOUGH ..... RESPONDENT**

**RULING**

1. From page 154 of the record of appeal, there was leave to appeal obtained from the lower court. Therefore, the first limb of the application seeking review of the Judgment of 2<sup>nd</sup> May 2023 on account that there was no leave of court sought to file the appeal is hereby allowed and the order set aside as leave was obtained on 28<sup>th</sup> April 2021.
2. The Respondent to file and serve a Response within ten (10) days of today with corresponding leave to the applicant to file and serve a further affidavit within 7 days of service.
3. Parties to canvass the second limb of the application dated 26<sup>th</sup> June 2023 orally on 22<sup>nd</sup> November, 2023.
4. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 16<sup>TH</sup> DAY OF OCTOBER, 2023**

**R.E. ABURILI**

**JUDGE**

