



**Republic & 2 others v Macharia (Criminal Revision E086 of 2024)
[2024] KEHC 14452 (KLR) (20 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14452 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E086 OF 2024
DR KAVEDZA, J
NOVEMBER 20, 2024**

BETWEEN

**REPUBLIC 1ST APPLICANT
SAMUEL MESHAMI 2ND APPLICANT
OPERATIONS MANAGER EQUITY BANK LIMITED 3RD APPLICANT

AND
RACHEL WANJIRU MACHARIA RESPONDENT**

RULING

1. The applicants have filed a Notice of Motion dated 18th November 2024 seeking revision orders under the impugned ruling in Kibera Chief Magistrate’s Court Criminal Case No. 972 of 2019 and Misc. Application No. E1052 of 2024. Specifically, they challenge the order issued on 20th November 2024, which unfroze the respondent’s account (No. 2601XXXXXX093) at Equity Bank, Tom Mboya Branch, and granted the respondent full access. The applicants request that the orders be set aside pending the hearing and determination of this application.
2. The application is supported by an affidavit of even date sworn by Ms. Kathurima, learned prosecution counsel. The applicants contend that the respondent was convicted of various offences and is currently serving her sentence. Despite a pending inter partes hearing on the respondent’s application, the trial court issued ex parte orders unfreezing the account. The applicants argue that they were not afforded an opportunity to be heard and further that the application was filed without delay. They further maintain that granting the orders sought will not prejudice the respondent but will ensure fair determination of the matter.
3. Upon considering the application, supporting affidavit, and the annexures, the court’s primary duty at this stage is to assess whether the applicants would suffer prejudice if the orders sought are not granted. Granting the orders is imperative to prevent irreparable harm, as allowing the respondent unfettered



access to and withdrawal of funds from the accounts at this juncture would render the application nugatory and defeat the purpose of the proceedings.

4. In the premises, I hereby make the following orders:
 - I. The matter is certified urgent
 - II. The order issued on 20th November 2024 at Kibera Chief Magistrate's Court Miscellaneous Application no. 1052 of 2024 unfreezing the respondent Rachel Wanjiru Macharia account no. 2601XXXXX093 at Equity Bank, Tom Mboya Branch are hereby set aside in their entirety pending hearing and determination of this application.
 - III. This order shall be served upon the 3rd applicant to ensure compliance.
 - IV. The applicants are directed to serve the respondent with the application and order of this court within 3 days from the date hereof.
 - V. Upon service, the respondent is directed to file a response within 7 days.
 - VI. The deputy registrar is directed to ensure that the original untyped trial court file and miscellaneous application file is availed within 7 days from the date hereof.
 - VII. The application shall be heard on 10th December 2024.

RULING DATED AND DELIVERED VIRTUALLY THIS 20TH DAY OF NOVEMBER 2024.

D. KAVEDZA

JUDGE

