



Mukiira v Middle East Bank Kenya Limited (Miscellaneous Civil Application E 908 of 2020) [2021] KEHC 162 (KLR) (Civ) (14 October 2021) (Ruling)

Neutral citation: [2021] KEHC 162 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
CIVIL
MISCELLANEOUS CIVIL APPLICATION E 908 OF 2020
F TUIYOTT, J
OCTOBER 14, 2021

BETWEEN

KIRIINYA MUKIIRA APPLICANT

AND

MIDDLE EAST BANK KENYA LIMITED RESPONDENT

RULING

1. The Application of 29th July 2020 has to fail because of a falsehood on the part of Kiriinya Mukiira (the Applicant). In the application he seeks leave of Court to file a suit against Middle East Bank Kenya Limited (the Bank) out of time.
2. He had brought an earlier suit on the same cause of action he now seeks to mount out of time being *MILIMANI COMMERCIAL CIVIL CASE NO. 134 OF 2014* Kiriinya Mukiira vs Middle East Bank Kenya Limited (civil suit 134 of 2014). That suit was struck out by Kasango J in a ruling of 13th June 2018 (the Ruling).
3. In an affidavit of 29th July 2020, sworn in support of the current application, Mr. Mukiira deposes that he finds himself in the current position because he was made aware of the Ruling in December 2019. This is obviously not true because this Court's attention is drawn to an affidavit sworn by Mr. Mukiira on 22nd August 2018 in civil suit 134 of 2014 where he supports an application for stay of execution of those proceedings as he appealed against the striking out decision. Other than attempting to raise some technical issues in respect to the affidavit of Felix Nganga Karanja which introduces his affidavit, Mr. Mukiira does not deny its contents.
4. Mr. Mukiira was aware that his earlier suit had been struck out at least by August 2018, a year more than he is willing to admit. Even if this Court had power to expand time for filing of a fresh suit it will not do so as the application is based on lack of candour.



DATED AND SIGNED THIS 29TH DAY OF SEPTEMBER 2021

F. TUIYOTT

JUDGE

DATED AND DELIVERED AT NAIROBI THIS 14TH DAY OF OCTOBER 2021

A. MABEYA, FCI Arb

JUDGE

