



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL SUIT NO. 1026 OF 2001

MICHAEL MUNGAI PLAINTIFF

VERSUS

HOUSING FINANCE CO. (K) LTD.....1ST DEFENDANT

KENYA BUILDING SOCIETY LTD.....2ND DEFENDANT

TAIFA AUCTIONEERS.....3RD DEFENDANT

CHRISTOPHER AVISA.....4TH DEFENDANT

KENYA COMMERCIAL BANK LTD.....5TH DEFENDANT

RULING

1. On 22nd January 2015 Justice J. Kamau delivered a very detailed judgment on this matter. It is clear from that judgment that the plaintiff, had prior to that final hearing of his case, filed numerous application. It was with a view to finally determining the matter that Justice J. Kamau persuaded the plaintiff to proceed with the full hearing which resulted in the learned judge delivering the judgment alluded to above.

2. The plaintiff, even after the delivery of that judgment persisted in communicating with the court requesting for a mention date. On 20th February 2019 I declined to sanction the fixing of mention date because it was not clear the purpose for which the plaintiff sought a mention. I directed the plaintiff to move the court by application.

3. It is important to note that the plaintiff is unrepresented and previously in this matter several judges have been unable to comprehend what orders the plaintiff seeks. This is the dilemma I found myself in when the plaintiff, in heeding to my direction filed a document, which I am hard pressed to refer to it as an application, because it is not. It is addressed as though it is a letter but very obscure and I am left not knowing what the plaintiff seeks from this court.

4. In sum I wish to say that the documents filed by the plaintiff, which cannot qualify to be called an application, is incompetent and cannot be entertained by this court. Perhaps what I would wish the plaintiff to understand is that this court rendered its final judgment on 22nd January 2015, when the plaintiff's case was dismissed. That being so other than the court of appeal setting aside that order of dismissal this court has no power to re-open the case.

5. It is for that reason I decline to entertain the documents filed on 25th November 2019. It is incompetent and is dismissed.

DATED, SIGNED and DELIVERED at NAIROBI this 4th day of MAY, 2020.

MARY KASANGO

JUDGE

ORDER

In view of the measures restricting court operations due to the **COVID-19 pandemic** and in light of the Gazette Notice No 3137 of 17th

April 2020 and further parties having been notified of the virtual delivery of this decision, this decision is hereby virtually delivered this 4th day of **May, 2020**.

MARY KASANGO

JUDGE