



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL SUIT NUMBER 595 OF 1988**

**ELIZABETH WANJUGU MUNGARA. .... PLAINTIFF**

**VERSUS**

**ANTONY MAINA KARIUKI. .... 1<sup>ST</sup> DEFENDANT**

**MUCHEMI MUGENI. .... 2<sup>ND</sup> DEFENDANT**

**R U L I N G**

In this court's Ruling dated 3<sup>rd</sup> December, 2012, I had at the undertaken to review the court's earlier ruling to include the amount properly due to each Defendant in the suit. However, I inadvertently failed to indicate therein that the 1<sup>st</sup> Defendant had already been fully paid before the Ruling was made. That slip which clearly became an error on the face of the record, required correction.

Shah & Parekh Advocates had made an application to that end which was not opposed and it was granted but the court has todate never corrected the figures notwithstanding several written reminders.

Liability was fixed between the 1<sup>st</sup> and 2<sup>nd</sup> Defendant at 50:50 of the sum of Ksh.346,436/-. This brought out an equal sum of Ksh.173,218/- reduced by costs of Ksh.73,082/- awarded by the Court of Appeal to the 2<sup>nd</sup> Defendant. That left in favour of the Plaintiff (a reduced sum of Ksh.173,218/- minus 73,082) = **Ksh.100,136/-**

It is noted that by the order of court the Defendants had deposited in two banking institutions, a sum of Ksh.286,800/-.

With Ksh.100,136/- payable to the Plaintiff as indicated above, what goes to the 2<sup>nd</sup> Defendant will be Ksh.286,800/= Ksh.100,136/- going to the Plaintiff = **Ksh.186,664/-**.

I accordingly make the following corrective (reviewing) orders based on my ruling of 3<sup>rd</sup> December, 2012.

**ORDERS**

- 1. Ksh.100,136/ to be paid to the Plaintiff.**
- 2. Ksh.186,664/- to be paid to the 2<sup>nd</sup> Defendant.**
- 3. Interest accrued from the sum of Ksh.286,800/- in the two financial institutions todate, to be shared between the Plaintiff and the 2<sup>nd</sup> Defendant in the ratio of 35% to 65% respectively.**
- 4. The 2<sup>nd</sup> Defendant is entitled to costs of the application dated 1<sup>st</sup> August, 2011 when the same to be agreed upon or be taxed and if already taxed, to be deducted from the sums due from the Plaintiff.**

Dated and delivered at Nairobi this 4<sup>th</sup> day of March, 2015.

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**D A ONYANCHA**

**JUDGE**