

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

MISC APPLICATION NO 549 OF 2010

HASSAN IBRAHIM MOHAMED

(SUING AS THE PERSONAL REPRESENTATIVE OF

THE ESTATE OF ALI ADOW MOHAMED, DECEASED).....APPLICANT

VERSUS

1. ALEX ODIANG ODHIAMBO

2. SOUTHERN CROSS SAFARIS LIMITED.....RESPONDENTS

R U L I N G “B”

1. By an **order entered on 29th July 2011** the court herein (Ang’awa, J) dismissed the Applicant’s application for leave to appeal out of time against a money decree of a lower court. By a **ruling dated 30th April and delivered on 3rd May 2013** the court (Waweru, J) dismissed an application to review and set aside the aforesaid order of Ang’awa J of 29th July 2011.

2. The Applicant has come back to court by **notice of motion dated 28th January 2014** seeking an order to review and set aside the order of 30th April 2013. The Respondent has taken a preliminary objection to the application on a point of law. That point of law is that the application is expressly forbidden by law, and hence incompetent.

3. **Order 45, rule 6** of the **Civil Procedure Rules, 2010** provides –

“6. No application to review an order made on an application for a review of a decree or order passed or made on a review shall be entertained.”

4. The order of 30th April 2013 now sought to be reviewed was, as already seen, made on an application to review the order of 29th July 2011. The present application is expressly forbidden by Order 45, rule 6 aforesaid. It is thus incompetent and cannot be entertained. It is hereby struck out with costs to the Respondent. It is so ordered.

DATED AND SIGNED AT NAIROBI THIS 8TH DAY OF OCTOBER 2014

H P G WAWERU

JUDGE

DELIVERED AT NAIROBI THIS 10TH DAY OF OCTOBER 2014