



**Nzioka v Republic (Miscellaneous Criminal Application E089 of 2025)  
[2025] KEHC 15601 (KLR) (31 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15601 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MALINDI  
MISCELLANEOUS CRIMINAL APPLICATION E089 OF 2025**

**M THANDE, J  
OCTOBER 31, 2025**

**BETWEEN**

**HASSAN RANDU NZIOKA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. In his Application filed in this Court, the Applicant says that he was convicted of the offence of defilement in Kaloleni Criminal Case No. 9 of 2018 and sentenced to 15 years imprisonment. He appealed to this Court in Criminal Appeal No. 23 of 2020, against both conviction and sentence, which appeal was dismissed.
2. The Applicant then moved to this Court by way of Criminal Revision No. E008 of 2024 seeking that the Court considers the period spent in custody prior to sentencing, and reduce his sentence accordingly pursuant to Section 333(2) of the Criminal Procedure Code. Given that this Court had considered and determined the Applicant's appeal, the revision was struck out for want of jurisdiction by dint of Article 165(6) of *the Constitution*.
3. The Applicant has now come back to this Court seeking the same prayers, but this time by way of a miscellaneous application. This is the third time the Applicant is moving this Court over the sentence imposed upon him. The Application is clearly an abuse of the court process.
4. As stated in my decision in the revision, the Court may only exercise that jurisdiction which has been conferred upon it by *the Constitution*, statute or both. In Samuel Kamau Macharia & another v Kenya Commercial Bank Limited & 2 others [2012] eKLR the Supreme Court stated that a court cannot expand its jurisdiction through judicial craft or innovation. Duly guided, my finding is that no matter how many times the Applicant moves this Court and no matter what shape or form his applications take, they will all be struck out for want of jurisdiction.



5. The Application being an abuse of the court process is hereby struck out.

**DATED, SIGNED AND DELIVERED IN MALINDI THIS 31<sup>ST</sup> DAY OF OCTOBER 2025**

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**M. THANDE**

**JUDGE**

