



REPUBLIC OF KENYA



**Mwangi v Republic (Criminal Miscellaneous Application E146 of 2025)  
[2025] KEHC 16338 (KLR) (12 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16338 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL MISCELLANEOUS APPLICATION E146 OF 2025  
HI ONG'UDI, J  
NOVEMBER 12, 2025**

**BETWEEN**

**NAHASHON KIMANI MWANGI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Nahashon Kimani Mwangi hereinafter referred to as the applicant was charged and convicted of four (4) counts of stealing contrary to section 268 as read with section 275 of the penal Code. The value of the timber stolen was and follows:
  - Count 1 – Kshs 193,580/=
  - Count 2 – Kshs 50,770/=
  - Count 3 – Kshs 197,980/=
  - Count 4 – Kshs 153,680/=
2. He pleaded guilty to all the counts and was sentenced as follows:
  - Count 1 – Fine Ksh 100,000/= in default 12 months imprisonment.
  - Count 2 – Kshs 50,000/= in default 6 months imprisonment
  - Count 3 – Fine Ksh 100,000 in default 12 months imprisonment
  - Count 4 – Fine Ksh 100,000/= in default 12 months
3. The applicant later filed Nakuru High Court Criminal Misc. Application No. E013 of 2025 Nahashon Kimani Mwangi on 24<sup>th</sup> January, 2025. In the Notice of Motion dated 24<sup>th</sup> January, 2025 he sought for the following prayers:



1. That the honourable court be pleased to order that his sentences in Chief Magistrate's Court Nakuru Criminal Case No. E150 of 2025 to run concurrently.
2. That the honourable court be pleased to make any other order that it will deem fit in the interest of justice.
4. The application was heard by Gichohi J and a ruling delivered on 29<sup>th</sup> July, 2025. The following were the findings and orders by Gichohi J:
  - a. In those circumstances, this Court upholds the conviction and sentence but reviewed to read that the sentences on each of the four counts will run consecutively.
  - b. Further, it is noted that the Accused/Applicant was arrested on 9<sup>th</sup> November 2024 and arraigned in Court on 12<sup>th</sup> November 2024. His plea was taken on 17<sup>th</sup> January 2025 and he pleaded guilty and was sentenced.
  - c. Section 333 (2) of the Criminal Procedure Code is couched in mandatory terms. The period spent in custody has be put into consideration when sentencing but the trial court did not comply.
  - d. In conclusion therefore: -  
The sentences on the four (4) counts will run consecutively.  
The sentences to run from the date of arrest being 9<sup>th</sup> November 2024.
5. In his application dated 18<sup>th</sup> August, 2025 the applicant has sought the following orders.
  - a. Spent
  - b. That the honourable court be pleased to revise and/or substitute the sentence imposed upon the applicant in Nakuru CMCCR in Nakuru E150 of 2025 – Republic Vs Nahashon Kimani Mwangi, in which the applicant was convicted for the offences of Stealing contrary to section 268 as read with section 275 of the Penal Code CAP 63 Laws of Kenya
6. The application was argued orally by both counsel for the applicant and the respondent.
7. Mr. Kimotho for the applicant urged the court to refer the matter to the Alternative Justice System (AJS) forum for purposes of review of the sentence. He confirmed that the applicant had been heard by Gichohi J but that it was only on the issue on how the sentences were to run.
8. On the other hand, Mr. Kihara SC – for the respondent submitted that the matter having been finalised cannot be referred to AJS. That there was no illegality or omission to make this court intervene.
9. I have perused the record in Nakuru Chief Magistrate MCCR No. E150 of 2025 and Nakuru High Court Misc. Criminal Application No. E013 of 2025. The applicant's prayers in Nakuru High Court Misc. Criminal Application E013 of 2025 are no different from what is before this court. Gichohi J addressed the issue of sentence very clearly in paragraphs 15, 16 and 17 of the Ruling delivered on 29<sup>th</sup> July, 2025.
10. The above being the position any interference with that finding would amount to acting as a supervisory court over a court of equal status. That would not be right.
11. Since the applicant is dissatisfied with the decision on sentence the only option for him is to file an appeal.



12. The upshot is that the application lacks merit and is dismissed.

13. Orders accordingly

**DELIVERED, DATED AND SIGNED THIS 12<sup>TH</sup> DAY OF NOVEMBER, 2025 IN OPEN COURT  
AT NAKURU.**

**H. I. ONG'UDI**

**JUDGE**

