



**Kariuki v Rugu (Sued as the legal administrator of the of Paul Rogo Itotia - Deceased)  
(Cause E045 of 2021) [2025] KEMC 287 (KLR) (4 December 2025) (Ruling)**

Neutral citation: [2025] KEMC 287 (KLR)

**REPUBLIC OF KENYA  
IN THE NAKURU LAW COURTS  
CAUSE E045 OF 2021  
PA NDEGE, SPM  
DECEMBER 4, 2025**

**BETWEEN**

**SALPHINE AYUMA KARIUKI ..... APPLICANT**

**AND**

**PETER ITOTIA RUGU (SUED AS THE LEGAL ADMINISTRATOR OF THE OF  
PAUL ROGO ITOTIA - DECEASED) ..... RESPONDENT**

**RULING**

1. What is pending before this court is the applicant's Notice of Motion dated 09/09/2025 expressed under the provisions of Orders 45 of the Civil Procedure Rules, seeing the following substantive orders;
  - a. That the Honorable Court be pleased to Review the judgment/ decree herein and remove the 1<sup>st</sup> Respondent from liability herein.
  - b. That further in the alternative, this Honorable Court be pleased to vary, set aside and review the judgment herein in terms of liability and dismiss the claim against the 1<sup>st</sup> Respondent as the Estate of the late PAUL RUGU ITOTIA was distributed by Confirmation of Grant dated 4/3/21 and shared between 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents who took over the Estate together with all liabilities as shown in the grant attached to the proceedings.
  - c. That also this Honorable court to state clearly whether the Judgment is jointly and severally or be specific as to which party is to satisfy the Decree.
  - d. That the costs of this application be in the cause.
2. The application is premised on the grounds on the face of it and the averments in the supporting affidavit sworn by the applicant. The applicant deposed that there is a mistake on the face of records given that he was only an administrator of the estate of the deceased and not an employer. He annexed



a confirmation of grant showing that the business herein was distributed to the other respondents in equal shares.

3. The Claimant has opposed the application by way of a Replying Affidavit. The germane issue that came from the reply is that this suit was filed against the estate of the deceased and that the applicant herein, as an administrator, was the right person to be sued.
4. I have considered the application and reply thereto as well as submissions of both parties. The issues for determination is whether the application meets the threshold for review as set out under Rule 74 of the Rules governing these cases, i.e. the Employment and Labour Relations Court (Procedure) Rules, 2024 which provides as follows –

74. Review

1. A person who is aggrieved by a decree or an order from which an appeal is allowed but from which no appeal is preferred or from which no appeal is allowed, may within reasonable time, apply for a review of the judgment or ruling—
    - a. if there is discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made;
    - b. on account of some mistake or error apparent on the face of the record;
    - c. if the judgment or ruling requires clarification; or
    - d. for any other sufficient reason.
  2. ...
  3. A party seeking review of a decree or order of the Court shall apply to the Court by way of notice of motion supported by an affidavit and shall file a copy of the Judgment or decree or Ruling or order to be reviewed.
  4. The Court shall, upon hearing an application for review, deliver a ruling allowing or dismissing the application.
  5. Where an application for review is granted, the Court may review its decision to conform to the findings of the review or quash its decision and order that the suit be heard again.
  6. An order made for a review of a decree or order shall not be subject to further review.
5. The grounds raised in the application herein is that of mistake or error apparent on the face of the records. I however do agree with the Claimant herein that this suit was filed on 19/01/2021, and the right person to have been sued at the time was the administrators of the estate of the deceased. The estate had then not been distributed. I thus find no error in that and for that reason, I find that the application does not meet the threshold for review as set out in Rule 74(1) and is hereby dismissed to that extent.
  6. As for prayer no. 6, I do hereby clarify that the judgment was entered jointly and/or severally against all the respondents herein and it is upon the claimant to choose whom to execute against. Save for this clarification, the application is accordingly dismissed with no orders for costs.

**DATED, SIGNED AND DELIVERED AT NAKURU ON THIS 4TH DAY OF DECEMBER, 2025**



**ALOYCE-PETER-NDEGE**

**SENIOR PRINCIPAL MAGISTRATE**

In the presence of;

Applicant's Counsel: N/A

Respondent's Counsel: Mburu

Applicant: n/a

Respondent: Present

Mburu: Praying for a copy of the ruling.

Ct: The claimant's counsel be supplied with a copy of the ruling upon payment of any necessary or requisite fee.

