

**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT  
MOMBASA**

**CAUSE NO. E021 OF 2025**

**RACHEL GAKII KIBANGA ..... 1<sup>ST</sup> CLAIMANT**

**CELESTINE LIYAI ..... 2<sup>ND</sup> CLAIMANT**

**GLADYS KURIA ..... 3<sup>RD</sup> CLAIMANT**

**VERSUS**

**KASHA TECHNOLOGIES LIMITED ..... RESPONDENT**

**RULING**

The ruling concerns an application filed by the 3rd claimant, Gladys Kuria, on 2 December 2025. The application is premised on sections 3 and 16 of the Employment and Labour Relations Court Act and Rule 74 of the Employment and Labour Relations Court (Procedure) Rules.

The 3<sup>rd</sup> claimant is seeking leave for the firm of J. W. & Frank Advocates LLP to come on record for her, and for the review of the judgment delivered on 30 October 2025, together with costs.

The application is supported by the affidavit of the 3rd claimant and grounds that judgment herein was delivered in favour of the 1st and 3rd claimants on 30 October 2025. The court held that the claimants' employment was unfairly terminated, but erroneously concluded that the 3rd claimant had been employed from 23 September 2023, whereas she had been employed on 3 May 2021.

The 1<sup>st</sup> claimant was awarded 10 months' gross salary in compensation, having worked for 4 years, while the 3rd claimant was awarded 5 months' gross salary in compensation due to an error in the position, which stated she had worked for 1 year instead of 4 years. The 3<sup>rd</sup> claimant was employed by the respondent on 3 May 2021 and worked for the respondent for 4 years.

Under Rule 74 of the Employment and Labour Relations Court (Procedure) Rules, the court may review and vary its orders and award the 3<sup>rd</sup> claimant accordingly.

The 3<sup>rd</sup> claimant also avers in her affidavit that in the judgment delivered on 30 October 2025, the 1st claimant was awarded Ksh. 5,750,000 while her award was Ksh. 1,500,000 in compensation against the respondent. The court determined the compensation based on the number of years worked. The court held that the 1<sup>st</sup> claimant had worked for 4 years, while she was found to have worked for a year in error. It is only fair that the judgment be reviewed

and her compensation assessed adequately on the basis that her employment lasted 4 years, not 1.

The respondent was served but failed to attend or file a response to the instant application.

The 3<sup>rd</sup> claimant thus submitted that upon retreat to read the judgment herein, an error was discovered that should be subject to review. The award to the 3<sup>rd</sup> claimant was promised on a mistake that she worked for 1 year instead of 4 years. The 1<sup>st</sup> claimant was awarded 10 months in compensation on the basis that she had worked for 4 years, while the 3<sup>rd</sup> claimant was awarded 5 months' compensation on the error that she had worked for 1 year. It is only fair and just that the judgment be reviewed and that she be awarded 10 months' compensation.

### **Determination**

First, the 3<sup>rd</sup> claimant is seeking leave for her advocate to come on record post-judgment. Her previous advocates were Amaan Kassam & Co. Advocates.

Although the respondent has not filed any response, as a court of record, the court is guided by the principles under Order 9 Rule 9

The guiding provisions of law about granting of leave for an Advocate to come on record after entry of Judgment are to be found in the provisions of Order 9 Rule 9 of the Civil Procedure Rules, which provides that:

***When there is a change of advocate, or when a party decides to act in person having previously engaged an advocate, after judgment has been passed, such change or intention to act in person shall not be effected without an order of the court—***

***(a) upon an application with notice to all the parties; or***

***(b) upon a consent filed between the outgoing advocate and the proposed incoming advocate or party intending to act in person, as the case may be.***

Thus, the essence of Order 9, Rule 9, is to create order. The aim is to secure justice for all the parties concerned. At the core of the rule is the protection of advocates from mischievous clients who wait until judgment is delivered, then sack the advocate and either replace him with another advocate or act in person. The provision is therefore an important one and cannot be wished away. Indeed, Order 9 does not foresee how Rule 9 can be sidestepped; hence, Rule 10 was enacted.

In this regard, the 3<sup>rd</sup> claimant only served her advocates on record. There is no consent, and despite seeking leave to appoint new advocates, neither the leave nor the appointment was regularised or addressed while counsel was addressing the court.

It is imperative that the rules of procedure, particularly in a matter such as this, be adhered to.

There is no consent or reasons why the appointed advocates are not attending to justify the new advocate post-judgment. Such a procedure is contrary to the rules.

The 3<sup>rd</sup> claimant shall remain represented by the firm on record, Amaan Kasaam & Co. Advocates.

That addressed, under Rule 74 of the Employment and Labour Relations Court (Procedure) Rules, where there is an error apparent on the face of the record, the court is allowed *suo motto* or through application by the parties to review its orders. This is to secure justice and correct the mistake that is noted.

In this regard, the 3<sup>rd</sup> claimant asserts that the respondent employed her for 4 years, and the court found that her employment was terminated unfairly. However, in assessing her award, it was reduced on the basis that she was employed for 1 year rather than 4, whereas the 1<sup>st</sup> claimant's assessment applied the rate of 4 years and an award of 10 months. In the circumstances, an error is apparent on the face of the record, warranting review.

Indeed, in the judgment, the court analysed that the 3<sup>rd</sup> claimant was employed in May 2021 and worked diligently until 25 October 2024, when her employment was unfairly terminated. However, in the finding, there is an error: she worked from 23 September 2023 to 30 November 2024, a period of 1 year and 2 months. The error has been noted, and under Rule 74 of the Employment and Labour Relations Court (Procedure) Rules, the court is permitted to correct it on review.

The judgment of the court delivered on 30 October 2025 is hereby reviewed. The award to the 3<sup>rd</sup> claimant shall reflect 4 years worked and, hence, entitle the 3<sup>rd</sup> claimant to compensation at the rate of 10 months, similar to the 1<sup>st</sup> claimant.

The salary paid to the 3<sup>rd</sup> claimant at Ksh. 300,000 x 10 = Ksh. 3,000,000 is due in compensation.

**Accordingly, the application dated 2 December 2025 is allowed to the extent:**

- a) The 3<sup>rd</sup> claimant's advocates are Anaan Kasaam & Co. Advocates;**
- b) Judgment delivered on 30 October 2025 is reviewed with an award of Ksh. 3,000,000 to the 3<sup>rd</sup> claimant in compensation.**
- c) No orders on costs.**

Delivered in open court at Mombasa on this 29th day of January 2026.

M. MBARŪ

JUDGE