

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ELC JUDICIAL REVIEW CASE NO. E030 OF 2024

REPUBLIC.....APPLICANT

-VERSUS-

LAND REGISTRAR NAIROBI ARDHI HOUSE.....1ST
RESPONDENT

THE CAPITAL MARKETS AUTHORITY.....2ND
RESPONDENT

AND

MEDALLION PROPERTIES LIMITED.....EX-PARTE
APPLICANT

RULING

1. Before this court for determination is the notice of motion dated 4th June, 2025 filed by the ex-parte applicant, and it is expressed to be brought under the provisions of **Article 159 (2)(d)** of the **Constitution**, **Sections 1A, 1B** and **3A** of the **Civil Procedure Act** as well as **Orders 43** and **51** of the **Civil Procedure Rules** seeking the following orders:-

1. Spent.

2. That this honourable court be pleased to vary or review its decree/orders issued on 24th April, 2025 and cause the orders therein granted to apply with respect to the properties known as IR. Nos. 248380, 248382, 248379, 248381, 248377, 248376 and 106486/1 as prayed in the substantive application dated 22nd November, 2024.

- 3. That the costs of the application be provided for.**
 - 4. That this honourable court be pleased to grant any other orders as it may deem fit to further the ends of justice.**
2. The application is premised on the grounds appearing on its face together with the supporting affidavit of Michael Gitonga, the director of the ex-parte applicant which was sworn on even date. The ex parte applicant deposed that this court delivered its judgment allowing the judicial review application with respect to property No. 243961 as opposed to all the properties outlines in the application dated 22nd November, 2025. It was further deposed that the court arrived at the above judgment due to the absence of evidence in regard to caveats on the said properties.
3. The ex-parte applicant further deposed that it was unable to obtain copies of all the searches on time even after due diligence had been conducted because the suit was filed in urgency. In a further affidavit sworn by Michael Gitonga on 25th July, 2025, the ex-parte applicant annexed seven copies of official searches done on land title nos. 248380, 248382, 248379, 248381, 248377, 248376 and 106486/1 confirming the registration of caveats of

the said properties. The ex-parte applicant urged the court to allow the application as prayed.

4. The respondents did not file any responses to the application despite there being evidence of service.
5. The application was disposed of by way of written submissions. The ex-parte applicant filed its written submissions dated 11th November, 2025 and submitted that it had indeed demonstrated that caveats were in existence affecting the subject properties. The ex-parte applicant further submitted that the omission of the subject properties from consideration by the court was premised on an error apparent on the face of the record which necessitated the application for review.
6. The ex-parte applicant submitted that it had demonstrated the pre-requisite conditions for an order of review as per the provisions of **Section 80** of the **Civil Procedure Act** and **Order 45** of the **Civil Procedure Rules**.
7. I have considered the application, and the written submissions filed. The issue for determination is *whether the application has merit*.

8. In the instant case, the judgment delivered on 24th April, 2025 determined all the issues in controversy between the parties herein. The said judgment was made in favour of the ex-parte applicant and there is no uncertainty about resolution of the dispute by this court.

9. **Section 3A** of the **Civil Procedure Act** outlines as follows:-

‘Nothing in this Act shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.’

10. The legal provisions for the amendment of decrees and judgments are found within **Sections 99** and **100** of the **Civil Procedure Act**. **Section 100** provides as follows:-

‘The court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceeding.’

11. In **Outa v Okello & 3 others (Petition 6 of 2014) [2017] KESC 25 (KLR)**, the Supreme Court held as follows: -

“By its nature, the Slip Rule permits a Court of law to correct errors that are apparent on the face of the Judgment, Ruling, or Order of the

Court. Such errors must be so obvious that their correction cannot generate any controversy, regarding the Judgment or decision of the Court. By the same token, such errors must be of such nature that their correction would not change the substance of the Judgment or alter the clear intention of the Court. In other words, the Slip Rule does not confer upon a Court, any jurisdiction or powers to sit on appeal over its own Judgment, or, to extensively review such Judgment as to substantially alter it. Indeed, as our comparative analysis of the approaches by other superior Courts demonstrates, this is the true import of the Slip Rule. ... The Supreme Court is the final Court in the land. But most importantly, it is a final Court of justice. This being the case, the Court is clothed with inherent powers which it may invoke, if circumstances so demand, to do justice. The Constitution from which this Court, and indeed all Courts in the land, derive their legitimacy decrees that we must do justice to all.”

12. The clear intention of the “Slip Rule” as the Supreme Court declared is to enhance the court’s inherent jurisdiction to ensure that justice is done in accordance with the laid down legal procedure. In **Kenya Power & Lighting Company Limited v Benzene Holdings Limited t/a Wyco Paints [2016] eKLR**, the Court of Appeal held a similar view as follows:-

“Section 3A of the Civil Procedure Act appears to have been introduced to augment the provisions

of section 3, vesting in the courts inherent power to make any orders as may be necessary for the ends of justice or to prevent abuse of the process of the court. Of course, this power has now been broadened by the introduction in 2009 of overriding objective in sections 1A & 1B and in 2010 by Article 159 of the Constitution.

The extent of inherent powers of the court was eloquently explained by the authors of the Halsbury's Laws of England, 4th Edn. Vol. 37 Para. 14 as follows:-

“The jurisdiction of the court which is comprised within the term “inherent” is that which enables it to fulfil itself, properly and effectively, as a court of law. The overriding feature of the inherent jurisdiction of the court is that it is part of procedural law, both civil and criminal, and not part of substantive law; it is exercisable by summary process, without plenary trial; it may be invoked not only in relation to the parties in pending proceedings, but in relation to anyone, whether a party or not, and in relation to matters not raised in litigation between the parties; it must be distinguished from the exercise of judicial discretion; it may be exercised even in circumstances governed by rules of court. The inherent jurisdiction of the court enables it to exercise control over process

by regulating its proceedings, by preventing the abuse of the process and by compelling the observance of the process ... In sum, it may be said that the inherent jurisdiction of the court is a virile and viable doctrine and has been defined as being the reserve or fund of powers, a residual source of powers, which the court may draw upon as necessary whenever it is just or equitable to do so, in particular to ensure the observance of the due process of law, to prevent improper vexation or oppression, to do justice between the parties and to secure a fair trial between them.” See also Meshallum Waweru Wanguku (supra)”

This inherent jurisdiction is a residual intrinsic authority which the court may resort to in order to put right that which would otherwise be an injustice.”

13. In this case, the ex-parte applicant sufficiently demonstrated that indeed it had cited the subject properties in its application dated 22nd November, 2024. The subject properties were all affected by the 2nd respondent’s application for restriction dated 13th September, 2024 which was presented for registration by the 1st respondent on 24th September, 2024. The ex-parte applicant

further annexed copies showing the impugned caveats in its further affidavit as the exhibits marked 'MG 1 - MG 7'.

14. If the above application is allowed, it will not change the substance of the court's judgment delivered on 24th April, 2025. The omission that has been pointed out by the ex-parte applicant is an error which is apparent on the face of the record and no injustice will be occasioned to the respondents as the points of controversy were already determined in the court's judgment.
15. The application herein does not seek to substitute the judgment of the court. The main intention of the application is to ensure that the judgment is fully perfected and that the final orders are implemented.
16. In the circumstances, the notice of motion dated 4th June, 2025 is hereby allowed as follows:
 - i. ***The orders issued on 24th April 2025 are hereby varied to extent that the same applies to the properties known as IR. Nos. 248380, 248382, 248379, 248381, 248377, 248376 and 106486/1 as prayed in the substantive application dated 22nd November, 2024.***
 - ii. ***I make no orders as to costs.***

It is so ordered.

**DATED, SIGNED & DELIVERED VIRTUALLY
THIS 3RD DAY OF FEBRUARY, 2026.**

**HON. MBOGO C.G.
JUDGE
03/02/2026.**

In the presence of:

Ms. Benson Arunga - Court assistant

Mr. Juma Ouko for the ex-parte Applicant

ORIGINAL