



REPUBLIC OF KENYA



**Runo t/a Page & Page Ventures v Namileli (Civil Cause  
148 of 2021) [2025] KEMC 354 (KLR) (4 December 2025) (Ruling)**

Neutral citation: [2025] KEMC 354 (KLR)

**REPUBLIC OF KENYA  
IN THE NAKURU LAW COURTS  
CIVIL CAUSE 148 OF 2021  
PA NDEGE, SPM  
DECEMBER 4, 2025**

**BETWEEN**

**AUSTINE KAMUNYO RUNO T/A PAGE & PAGE VENTURES ..... APPLICANT**

**AND**

**SYALIKHO NAMILELI ..... RESPONDENT**

**RULING**

1. What is pending before this court is the applicant's Notice of Motion dated 21/02/2025 expressed under the provisions of Article 50(1) and 159 (2) of the [Constitution of Kenya](#), Sections 1A, 1B, 3, 3A and 80 of the [Civil Procedure Act](#), Order 9, Rule 9, Order 40, Order 45 Rule 1 and Order 51 Rule 1 of the [Civil Procedure Rules](#) seeking the following substantive orders;
  - a. That the Honorable Court be pleased to vacate, set aside and/or review its Judgment of 13/07/2023 and all resultant orders
  - b. That the Honorable Court grant any other or further relief as it may deem fit and just in the circumstances
  - c. That the costs of this application be provided for.
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 judgment in this cause was delivered on 13/07/2023 in which the Honorable Court delivered its decision in favour of the Claimant. That the decision was based on a hearing held on 30/05/2023 which hearing was conducted in the absence of the Applicant herein owing to him and his advocate on record at the time being absent. That the absence by the Applicant on the day was not indolent but rather occasioned by the fact that he was not informed of the said date of hearing by his counsel on record at the time, who had full instructions of the Applicant and whom the Applicant had entrusted to act in his best interest. That the Application herein was not accorded a fair hearing, thereby violating the principle of natural justice. That the Applicant's



counsel from the record before the Honorable Court in the matter was negligent in defence of the claim against the Claimant, thereby aiding the Claimant's claim, which the Applicant remains staunch in his standing that the same was frivolous and based on fabricated evidence. That new and compelling evidence had been realized by the Applicant owing to a report submitted by the DCI after forensic investigation of the forged document, which was heavily relied upon by the Claimant, Respondent herein in the prosecution of his claim and subsequently the judgment of the court. That the said report is born of a report at Kaptembwa police station vide O.B. number 28/16/6/2021 by the Applicant, citing that the said document was a forgery and an Occurrence Book (O.B) obtained to that effect. That it would be a great miscarriage of justice should this Honorable Court condemn the Applicant herein based on forged documents. That the only cure to the foregoing would be a vacation, review and/or setting aside of the judgment to allow for the fresh evidence to be tendered for consideration. That the instant application is made in good faith and without undue delay.

### **Respondents' Replying Affidavit**

3. The respondent opposed the application vide a replying affidavit dated 21/07/2025, sworn by himself. He urged that the application herein is misconceived, incompetent and bad in law. That it true that the judgment herein was delivered in his favour on 13/07/2023. That it is true that the matter herein proceeded to hearing on 30/05/2023 undefended which action culminated in judgment being delivered on 13/07/2023. That it is true that the applicant herein filed a chamber summons application dated 25/08/2023 seeking stay of execution orders against the judgment of the court, which application was dismissed vide a ruling dated 28/0505/2024. That the applicant herein then rushed to the Nakuru Employment and Labour Relations Court vide Miscellaneous application number E033/2024 dated 17/07/2024, where he sought stay of execution orders against the judgment herein, which application was dismissed with costs vide a ruling delivered on 06/12/2024. That it also not in dispute that the applicant herein neither mentioned forgery of his signature or stamp impression in his chamber summons application dated 25/08/2023 and 17/07/2024 hence a clear demonstration that the new unfounded allegations are meant to obstruct the cause of justice and prevent the respondent from realizing the fruits of his judgment. That the applicant herein did not plead particulars of fraud against the claimant in his reply to memorandum of claim dated 13/07/2021 ever or at all, hence parties are bound by their pleadings. That the present application is a duplication of many other applications seeking stay orders, most notably, the notice of motion application dated 21/02/2025 which was withdrawn by the Respondent. That the present application is a clear abuse of court process hence a perfect candidate for dismissal. That he has never been arrested or any charges pressed against him before a court of law on account of forgery or fabrication of documents to date. That the present application is a desperate attempt by the applicant to obstruct the cause of justice and prevent the respondent from realizing the fruits of his judgment delivered over 2 years ago. That the applicant is on a fishing expedition and has no clear outcome of his complaint lodged at Nakuru Central Police Station vide O.B. number 28/16/6/2021 hence the court should not entertain the thought of being misused by the applicant to source for evidence to support his otherwise frivolous case. That the applicant herein lodged an appeal against judgment of the court delivered on 13/07/2023 hence the current application is a clear abuse of court process. That appeals in money decrees are never rendered nugatory and the courts have indicated as much in already decided cases. That by allowing the applicant's application herein, the court would be aiding the applicant's indolence in discovery yet the court is not centered for such purposes.

### **Analysis & Determination**

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](#) provides 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 are the discovery of new and important matter or evidence. The Respondent in the application herein has however raised 2 serious issues, which however should have been serious grounds of oppositions herein. First is that there is an appeal pending with regard to the impugned judgment herein. A draft Memorandum of Appeal was a subject to a ruling by the Employment and Labour Relations court in Nakuru Miscellaneous Application No. E033 of 2024. The ruling however dismissed the draft Memorandum and that can be used to presume that no appeal was filed and that none is therefore pending herein.
6. There is however a valid ground about the unreasonable delay in filing this application for review. Rule 74(1) above is clear that such an application for review should be made without unreasonable delay. The decision impugned by the applicant was delivered on 23/07/2023. The application for review was filed on 01/07/2025. This is a delay of almost 2 years. No justification was given by the applicant for the delay. Rule 74 specially states that an application for review may be made ‘within a reasonable time’. 2 years can by any standards not be a reasonable time. No valid explanation was given to the court to justify the inordinate delay. I therefore find that the application was not made within a reasonable time as required by the law. Within that time, the applicant has filed multiple applications both before this court and the Employment and Labour Relations Court which have all been dismissed and as rightly pointed out by the Respondent and his counsel, this application amounts to an abuse of the court



process, is misconceived, otiose in nature, meant to aid the applicant's indolence and therefore a waste of the court's time.

7. For the foregoing reasons, I find that the application does not meet the threshold for review as set out in Rule 74(1) as it has not been brought within a reasonable time. The application is accordingly dismissed with no orders for costs.

**DATED, SIGNED AND DELIVERED AT NAKURU ON THIS 04<sup>TH</sup> DAY OF DECEMBER 2025**

**ALOYCE-PETER-NDEGE**

**SENIOR PRINCIPAL MAGISTRATE**

In the presence of;

Applicant's Counsel: N/A

Respondent's Counsel: N/A

Applicant: N/A

Respondent: N/A

