



**Nyeri Muslim Mosque Association v Registrar of Societies; Njuguna
& 2 others (Interested Parties) (Judicial Review Application
E016 of 2024) [2026] KEHC 6314 (KLR) (8 May 2026) (Ruling)**

Neutral citation: [2026] KEHC 6314 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
JUDICIAL REVIEW APPLICATION E016 OF 2024**

**MA ODERO, J
MAY 8, 2026**

BETWEEN

NYERI MUSLIM MOSQUE ASSOCIATION APPLICANT

AND

REGISTRAR OF SOCIETIES RESPONDENT

AND

ZUBERI RAMADHAN NJUGUNA INTERESTED PARTY

FAHIM MOHAMED INTERESTED PARTY

ANTONY MWANGI AKA ANTONY OMAR INTERESTED PARTY

RULING

1. The Applicant herein Nyeri Muslim Mosque Association have filed the Notice of Motion dated 30th July 2025 seeking the following orders;-

- “ 1. Spent.
- 2. That this Honourable Court be pleased to set aside all the orders it made herein on Wednesday, the 30th day of July 2025, striking out and/or terminating the substantive motion dated 25th October 2024 and/or closing the file, re-open the file and reinstate the same for hearing.
- 3. That this Honourable Court may be pleased to make an order on costs.”



2. The application which was premised upon Order 51 Rule 1 and 4 Civil Procedure Rules 2010 and Sections 1A, 3 and 3A *Civil Procedure Act* and was supported by the affidavit of even date sworn by Mr Peter Mwangi Muthoni Advocate of the High Court of Kenya.
3. The application was canvassed by way of written submissions. The Applicant filed the written submissions dated 11th December 2025 whilst the Respondents relied on their submissions dated 11th December 2025.

Analysis and Determination

4. On 2nd December 2024 the Court granted the Ex Parte Applicant twenty one (21) days to file the Substantive Motion.
5. The matter came up for hearing on 30th July 2025 and Counsel for the Interested Party sought dismissal of the suit on the grounds that the Applicants had failed to comply with the directions made on 2nd December 2024 and had failed to file and serve the substantive motion. On that date the court dismissed the suit and closed the file.
6. The Applicant now prays that the orders of 30th July 2025 be set aside and that the suit be reinstated for hearing.
7. The only issue for determination is whether the Applicant has established sufficient grounds to set aside the dismissal orders and have the suit reinstated.
8. The law governing the reinstatement of suits that have been dismissed is contained under Order 12 Rule 7 of the Civil Procedure Rules. This rule grants the Court a discretionary power to set aside the dismissal order on such terms as may be just. For avoidance of doubt, Order 12 Rule 7 of the Civil Procedure Rules provides as follows:-

“Where under this Order judgment has been entered or the suit has been dismissed, the court, on application, may set aside or vary the judgment or order upon such terms as may be just.”
9. In *Invita v Kyumbu* [1984] KLR 441 the Court set out the considerations were said to include whether the delay is prolonged and inexcusable; whether justice can be done despite the delay; The positions of both sides must be considered; whether the other side would be prejudiced, whether prolonged delay; and the reasons given for the delay.
10. The decision of whether or not to reinstate the suit lies at the discretion of the court. In *SHAH -VS- MBOGO & Another* [1967] EA 116 the Court stated as follows:-

“The discretion is intended so to be exercised to avoid injustice or hardship resulting from accident, inadvertence, or excusable mistake or error, but is not designed to assist the person who has deliberately sought, whether by evasion or otherwise, to obstruct or delay the course of justice.”
11. The Applicant through his Advocate has explained that they were not able to attend court on 30th July 2025 due to a technical hitch with his gadget which prevented him from joining the virtual session. It is not unheard of for crucial gadgets to malfunction. I note that on previous dates the applicant has always been represented in court, showing that they have the intention and desire to prosecute the matter. I am satisfied that the reasons given for failure to attend court are reasonable. Therefore I do allow this application and make the following orders.



1. The orders made by this Court dismissing the petition on 30th July 2025 be and are hereby set aside.
2. The Application dated 24th October 2024 is hereby reinstated for hearing.
3. Applicant to file and serve the substantive petition within fourteen (14) days.
4. The Applicant to meet the costs of this application.

DATED IN NYERI THIS 8TH DAY OF MAY 2026.

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MAUREEN A. ODERO

JUDGE

