

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

ELC APPEAL NO. 62 OF 1998

GERALD MWITHIA.....APPELLANT/APPLICANT

VERSUS

STANLEY GITONGA.....RESPONDENT

RULING

1. The applicant/appellant Gerald Mwithia has filed an application on 18.10.2018 seeking for review of the court's ruling dated 3.10.2018, and reinstate the application dated 14.10.2013. The main grounds in filing this application is that the court did not consider the replying affidavit of Gerald Mwithia while determining the aforesaid application.
2. Stanley Gitonga, the Respondent opposes the present application averring that, the application is a delaying tactic and that there is a court of appeal decision which remains unchallenged to date.
3. This matter has been determined by the court of appeal vide the judgment in **Nyeri court of appeal no. 297/2010** delivered on **18.7.2013**. Stanley thereafter filed the application dated 14.10.2013 of which I delivered my ruling on 3.10.2018, where I have stated that there was no replying affidavit to that application. That must have been an error since in the reconstructed bundle of documents, I have seen the said replying affidavit.
4. In the circumstances the application of 17.10.2018 is allowed whereby the ruling of 3.10.2018 is hereby reviewed in order to allow the hearing of the application of 14.10.2013 all over again. No orders as to costs.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 17TH DECEMBER, 2018 IN THE PRESENCE OF:-

C/A: Kinoti

Mutegi for applicant/appellant

Mammu for respondent

HON. LUCY. N. MBUGUA

ELC JUDGE