



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: NAMBUYE, ASIKE-MAKHANDIA & KANTAI JJ.A.)

CIVIL APPLICATION NO. E363 OF 2020

BETWEEN

GEOFFREY KARANJA MWAURA.....APPLICANT

AND

RAHAB MUTHONI MBATIA.....1ST RESPONDENT

JOB KARANJA NGUGI.....2ND RESPONDENT

COUNTY LAND REGISTRAR, KIAMBU.....3RD RESPONDENT

(Being an Application seeking for stay of Execution of the Judgment and Order of the Environment and Land Court of Kenya (O. Angote, J.) dated 18th October, 2019

in

Thika ELC No. 509 of 2017)

ORDER OF THE COURT

ORDER ON CORRECTION OF TYPOGRAPHICAL ERROR PURSUANT TO

RULE 35(1) OF THE RULES OF THE COURT

A ruling in this application was delivered on 16th April, 2021. On 20th April, 2021 M/s Koki Mbulu instructed by the firm of Koki Mbulu & Co. Advocates on record for the applicant addressed a letter to the Deputy Registrar of the Court Ref: EKM/E363/2020 as follows:

“We write concerning an error at paragraph 2 of a ruling dated 16th April, 2021 in relation to Civil Application No. E363 of 2020. Ms. Koki Mbulu was erroneously referred to be acting for the 1st respondent where in fact she was acting for the applicant.

Pursuant to Rule 35(1) of the Court of Appeal Rules, 2010, we hereby request for the correction of the same and the reference to her as counsel for the applicant.”

Rule 35(1) of the Court of Appeal Rules, 2010 provides as follows:

35(1) A clerical or arithmetical mistake in any judgment of the Court or any error arising therein from an accidental slip or omission may at any time, whether before or after the judgment has been embodied in an order, be corrected by the Court, either of its own motion or the application of any interested person so as to give effect to what the intention of the Court was when judgment was given.

It is Ms. Koki Mbulu’s position that rectification of the entry on the record with regard to the legal representation of the respective parties herein along the lines suggested in her above communication will give effect to the intention of the Court with regard thereto considering that learned counsel Mr. Mwicigi had been correctly described at line 5 from the top on the same page as appearing for the 1st respondent.

It is appreciated that the above communication was not copied to the opposite party. We however find no prejudice occasioned to the opposite party considering that this is a minor correction which if upheld as requested for by the applicant will not in any way affect the substratum of the ruling as duly delivered on 16th April, 2021. It will merely operate to give effect to the intention of the Court which was bound in law to indicate correctly the legal representation for the respective parties herein as indicated above.

In the result and in the exercise of our mandate donated to the Court pursuant to **Rule 35(1)** of the **Rules** of the Court, we proceed to make the following correction in the said ruling.

At page 2 of the ruling line 4 – 6 from the top, the sentence reading “....

Learned counsel Miss Koki appeared for the 1st respondent while learned counsel, Mr. Mwicigi appeared for the 1st respondent”, is corrected to read as follows: “.... Learned counsel Miss Koki appeared for the applicant while learned counsel, Mr. Mwicigi appeared for the 1st respondent.”

There will be no order as to costs.

DATED and DELIVERED at NAIROBI this 4th day of June, 2021.

R. N. NAMBUYE

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR