



**Murbe v Libya Oil Kenya Ltd (Cause 288 of 2019)
[2025] KEELRC 271 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 271 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 288 OF 2019
S RADIDO, J
FEBRUARY 6, 2025**

BETWEEN

ABBAS ALI MURBE CLAIMANT

AND

LIBYA OIL KENYA LTD RESPONDENT

RULING

1. The Court declined an attempt by Abbas Ali Murbe (the Claimant) to amend the Statement of Claim in a Ruling delivered on 13 June 2024.
2. The Claimant was not satisfied and through a Motion dated 21 June 2024, now seeks orders:
 - i. ...
 - ii. This Honourable Court be pleased to review the Ruling delivered in this Cause on 13th June 2024.
 - iii. This Honourable Court do make such orders and issue any other relief it may deem just to grant in the interest of justice.
 - iv. The costs of this application be in the cause.
3. The ground in support of the Motion was that there was a mistake/error apparent on the face of the record.
4. According to the Claimant, the particulars of the mistakes or errors were that the Court had assumed that he had not pleaded that he had been seconded to Chad; the Ruling assumed that he sought to introduce new issues and that the amendment sought to introduce events which occurred before secondment.



5. The Respondent filed a replying affidavit opposing the Motion on 10 July 2024, asserting that the Motion was incurably defective and an abuse of the court process; there was no error apparent on the face of the record; the Court had given reasons for dismissing the initial Motion and that the Claimant was misrepresenting the ratio decidendi of the Ruling sought to be reviewed.
6. On 11 July 2024, the parties proposed and the Court directed that the Motion be canvassed through submissions.
7. The Claimant filed his submissions on 20 September 2024, and the Respondent on 15 October 2024.
8. The Court has considered the Motion, affidavits and submissions.
9. The Court of Appeal discussed the scope of the review jurisdiction in *National Bank of Kenya v Ndungu Njau* (1997) eKLR and stated:

A review may be granted whenever the Court considers it necessary to correct an apparent error or omission on the part of the Court. The error or omission must be self-evident and should not require an elaborate argument to be established. It will not be a sufficient ground for review that another judge could have taken a different view of the matter. Nor can it be a ground for review that the Court proceeded on an incorrect exposition of the law and reached an erroneous conclusion of law. Misconstruing a statute or other provision of law cannot be a ground for review.

10. In the proposed amendments, the Claimant seeks to introduce the following reliefs:
 - (d) An order directing the Respondent to pay the Claimant 4,700 Euros, being the Claimant's 13th salary for the year 2016.
 - (e) An order directing the Respondent to pay the Claimant 1,800 Euros, being a refund of an unfair, unlawful and illegal deduction made from the Claimant's final dues.
 - (f) An order directing the Respondent to pay the Claimant 300 Euros, being a refund of an unfair, unlawful and illegal deduction made from the Claimant's final dues.
 - (g) General damages for loss/damage arising from the Respondent's failure to deliver to the Claimant his moveable property and personal effects listed in paragraph 25D above.
 - (h) Interest on (c), (d), (e) and (f) above at court rates from 8th June 2017 until payment in full.
 - (i) Interest on the damages awarded under (g) above, at court rates from the date of judgment until payment in full.
11. These are the exact reliefs that the Claimant sought to introduce and which were declined in the Ruling sought to be reviewed.

12. In declining to allow the amendments, the Court stated:

This proposed amendment cannot stand. The Claimant seeks to alter his cause of action and instead of seeking reliefs related to the initial claim he filed, he now seeks to introduce the issue of a secondment to Chad. All the issues relate to the year 2016 and 2017 long before the suit was filed. As such to permit the introduction of fresh claims contrary to the provisions of section 90 of the *Employment Act* would be farcical and therefore disallowed.

13. The Court clearly and in simple language gave the reasons why it declined the Claimant's application and this was the introduction of new cause(s) of action outside the prescribed 3-year window.



14. The Court is unable to discern any mistake or error apparent on the face of the record or any assumption of fact or law on the part of the Court that delivered the Ruling. The Claimant is seeking to introduce claims for legal or contractual breaches which accrued over 6 years ago.
15. The Claimant has brought the Motion on the same grounds that were rejected by the Court. He is trying to achieve what he failed to achieve before this Court, differently constituted. His option lay in an appeal to the Court of Appeal.
16. The instant Motion is found to be an abuse of the court process.

Orders

17. The Motion dated 21 June 2024 is devoid of merit and an abuse of the court process. It is dismissed with costs to the Respondent.

DELIVERED VIRTUALLY, DATED AND SIGNED IN MACHAKOS ON THIS 6TH DAY OF FEBRUARY 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Ronn Law Advocates LLP

For Respondent Amin & Co. Advocates

Court Assistant Wangu

