



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kimanzi v Mwangangi (Miscellaneous Cause E056 of 2025)  
[2025] KEELRC 1590 (KLR) (23 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1590 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS CAUSE E056 OF 2025**

**AK NZEI, J  
MAY 23, 2025**

**BETWEEN**

**ALEX KIMANZI ..... APPLICANT**

**AND**

**DR EVANS MUMO MWANGANGI ..... RESPONDENT**

*(Before Hon. Lady Justice Agnes Kitiku Nzei)*

**RULING**

1. The application before me for determination is the Applicant's Notice of Motion dated 25<sup>th</sup> February, 2025. The Application seeks the following Orders:-
  - a. That the Court be pleased to order refund of the fine of Kshs.1,000,000/= paid by the Applicant pursuant to the Ruling delivered on 14<sup>th</sup> November, 2016 in Nairobi ELRC Cause No. 18 of 2016 (Evans Mumo Mwangangi – vs – Kitui County Service Board & 4 Others).
  - b. That this Court be pleased to issue any further orders that it may deem fit and expedient in the circumstances.
  - c. That costs of the application be provided for.
2. The application, expressed to be brought under Order 51 Rule 1 of the *Civil Procedure Rules*, Sections 1A, 1B and 3A of the *Civil Procedure Act* and other enabling provisions of the law, sets out on its face the grounds on which it is brought, which are amplified in the Applicant's supporting affidavit sworn on 25<sup>th</sup> February, 2025. It is deponed in the said affidavit:-
  - a. that vide a Ruling dated 14<sup>th</sup> November, 2016 in Nairobi ELRC Cause No. 18 of 2016 (Evans Mumo Mwangangi – vs – Kitui County Service Board & 4 Others), the Applicant (Alex Kimanzi), was cited for contempt and was consequently ordered to pay a fine of



Kshs.1,000,000/= (Kenya Shillings One Million) or in default be committed to civil jail for a period of 30 days.

- b. that pursuant to the Ruling, the Applicant paid the fine of Kshs.1,000,000/=.
  - c. that being dissatisfied with the said Ruling and orders of the Court, the Applicant appealed to the Court of Appeal vide Nairobi Civil Appeal No. 187 of 2017, seeking the setting aside of the ELRC's (this Court's) Orders dated 14<sup>th</sup> November, 2016.
  - d. that vide a Judgment dated 3<sup>rd</sup> February, 2023, the Court of Appeal set aside the ELRC's (this Court's) Orders issued on 14<sup>th</sup> November, 2016 in Cause No. 18 of 2016.
  - e. that the Court of Appeal further ordered that the Applicant be refunded the (fine) money if he had paid the same.
  - f. that it is on the basis of the said Court of Appeal's Orders that refund is being sought.
  - g. that the application ought to be allowed, in the interest of justice.
  - h. that no prejudice will be suffered by the Respondent if orders herein sought are granted.
3. Documents annexed to the said supporting affidavit are copies of this Court's Ruling delivered on 14<sup>th</sup> November, 2016 (Ndolo, J) in Nairobi ELRC Cause No. 18 of 2016 (Dr. Evans Mumo Mwangangi – vs – Kitui County Service Board & County Secretary, County Government of Kitui – and – Alex Kimanzi, Rose Kavata Musya & Fredrick Muli – Contemnors). Other documents annexed are copies of a bank deposit slip for Kshs.1,000,000/= (dated 18<sup>th</sup> November, 2016), whereon the depositor is indicated as Alexander N. Kimanzi. Also annexed is a copy of Court Receipt No. 2781510 for Kshs.1,000,000/= (dated 18<sup>th</sup> November, 2016) and issued to Alexander N. Kimanzi. A copy of a certified copy of the Court of Appeal's Judgment delivered on 3<sup>rd</sup> February, 2023 in the said Court's Civil Appeal No. 187 of 2017 (Alex Kimanzi – vs – Dr. Evans Mumo Mwangangi) is also annexed to the said supporting affidavit.
4. Pursuant to leave granted by this Court on 25<sup>th</sup> March, 2025, the Applicant filed a supplementary affidavit sworn by himself on 28<sup>th</sup> March, 2025. It is deponed in the said supplementary affidavit:-
- a. that the Applicant's name as per his national identification card is Alexander N. Kimanzi.
  - b. that the Applicant was cited in Nairobi ELRC Cause No. 18 of 2016 (Evans Mumo Mwangangi – vs – Kitui County Service Board & 4 Others) as Alex Kimanzi instead of Alexander N. Kimanzi.
  - c. that on 16<sup>th</sup> November, 2016, the Applicant paid the fine imposed by this court, and [a bank] deposit slip was issued to him in the name of Alexander N. Kimanzi as per his (the Applicant's) national identification card.
  - d. that the names Alex Kimanzi and Alexander N. Kimanzi refer to one and the same person, the Applicant.
5. Annexed to the supplementary affidavit is a copy of the Applicant's National Identity Card No. 6818082, bearing the name Alexander N. Kimanzi.
6. On 25<sup>th</sup> March, 2025, I directed that the Court's Deputy Registrar brings up to this Court the Court file herein alongside the Court's Original File/Record in Nairobi ELRC Cause No. 18 of 2016 on the day fixed for hearing of the application herein. I have perused the said original Court file and I have seen therein the Court's copy of Court Receipt No. 278150 for Kshs.1,000,000/=, issued on 18<sup>th</sup>



November, 2016 in favour of the Applicant (Alexander N. Kimanzi). The order for payment by the Applicant of the said sum in fine was made in the said file/matter, and the said Court orders are shown to have been set aside on appeal and the paid fine ordered to be refunded.

7. The Court was not told why an application for refund of the said sum to the Applicant (the depositor) was not filed in Cause No. 18 of 2016, and yet the Original Court file on the said cause is very much available. I will not, however, dismiss the application herein, in the interest of justice.
8. The application stands unopposed, despite service of the same on both the Respondent herein and parties in ELRC Cause No. 18 of 2016 pursuant to this Court's Orders in that regard.
9. Although it is clear that the Applicant herein is entitled to refund of the said Kshs.1,000,000/= fine pursuant to the Court of Appeal's Judgement delivered on 3<sup>rd</sup> February, 2023 in the said Court's Nairobi Civil Appeal No. 187 of 2017, I cannot make an order for refund in a Miscellaneous Cause when this Court's record/file in Cause No. 18 of 2016 is available.
10. Consequently, the Applicant's Notice of Motion dated 25<sup>th</sup> February, 2025 is hereby determined in the following terms:-
  - a. The Applicant shall forthwith place a certified copy of the Court of Appeal's Judgement delivered on 3<sup>rd</sup> February, 2023 in Nairobi Civil Appeal No. 187 of 2017 (Alex Kimanzi – vs – Dr. Evans Mumo Mwangangi) in this Court's record/file in Cause No. 18 of 2016.
  - b. The Applicant may file an appropriate application in this Court's Cause No. 18 of 2016 for issuance of an order for refund of the fine in issue to the Applicant, possibly by the Court's Deputy Registrar, upon perusal and verification of original copies of the documents exhibited herein.
11. I make no order as to costs.
12. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 23<sup>RD</sup> DAY OF MAY 2025**

**AGNES KITIKU NZEI**

**JUDGE**

Order

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

Appearance:

Miss Mutuku for the Applicant

No appearance for the Respondent

