



**Rift Valley Railways Workers Union (K) v Kenya Railways Corporation;
Rift Valley Railways Kenya Limited (Interested Party) (Cause
37 of 2013) [2025] KEELRC 1484 (KLR) (22 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1484 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 37 OF 2013
CN BAARI, J
MAY 22, 2025**

BETWEEN

RIFT VALLEY RAILWAYS WORKERS UNION (K) CLAIMANT

AND

KENYA RAILWAYS CORPORATION RESPONDENT

AND

RIFT VALLEY RAILWAYS KENYA LIMITED INTERESTED PARTY

RULING

1. This ruling relates to the Applicant’s motion application dated 7th January, 2025, wherein, it seeks the following reliefs: -
 - i. Spent
 - ii. Spent
 - iii. Spent
 - iv. A declaratory Order to the effect that the matter herein was filed in the year 2007 as Cause 35 of 2007, later on queued as Cause 37 of 2013 following the promulgation of the New Legal regime *the Constitution* of Kenya 2010 that necessitated its transfer from the High Court Civil Division to the newly created Employment and Labor Relations Court.
 - v. Without prejudice to the prayers as have been prayed in the application dated the 6th day of November 2024, the findings in the Ruling under review be hereby varied to conform to the findings in the instant matter of Review
 - vi. costs of the application be provided for.



2. The Applicant states that the award with respect to the issue of costs as was directed by the trial court was clearly informed by the courts understanding that the matter was filed in the year 2013 as Cause 37 of 2013.
3. That the correct position however, is that the matter was first filed in the year 2007 in the High Court Civil Division, and only got transferred to the Employment and Labour Relations court, six years later, in the year 2013 and queued as Cause 37 of 2013, following the creation of the Employment and Labour courts by the new Constitution 2010.
4. The Applicant further states that the Hon. Court's sentiment in Paragraphs 3, 6 and 14 in the ruling herein being reviewed, ought of necessity to be reviewed and/or varied informed by the current position.
5. It avers that all the receipts produced in the matter were issued in the years 2006 and 2007, a date before the claim, and therefore, the same ought to have been considered in assessing the costs to be awarded.
6. The Respondents opposed the motion vide grounds of opposition dated 24th March, 2025. They argue that the application does not meet the threshold for granting of orders of review, as there is no error apparent on the face of the record or new and important evidence that was not considered by this court in delivering its ruling on 21st November, 2024.
7. The Respondents aver that the application as filed is disguised as an appeal against the ruling of this Honourable Court delivered on 21st November 2024. It states that the application as filed is res judicata, the issues raised therein, having been dealt with exhaustively and settled in the above matter in which the Honourable Judge delivered a ruling on 21st November, 2024.
8. The Respondents state that the motion as filed does not raise any ground and or/evidence to justify the grant of the orders sought therein.
9. Parties canvassed the motion by way of written submissions, and which have been duly considered.

Determination

10. The singular issue for determination is whether the Applicant has established grounds for review of the ruling rendered on 21st November, 2024.
11. Section 16 of the *Employment and Labour Relations Court Act*, empowers this court to review its judgements, awards, orders or decrees in accordance with the Employment and Labour Relations Court (Procedure) Rules, 2024. Rule 74 (1) of the Employment and Labour Relations Court (Procedure) Rules, 2024 states:

“A person who is aggrieved by a decree or an order from which an appeal is allowed but from which no appeal is preferred or from which no appeal is allowed, may within reasonable time, apply for a review of the judgment or ruling—

- (a) if there is discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made;
- (b) on account of some mistake or error apparent on the face of the record;
- (c) if the judgment or ruling requires clarification; or



(d) for any other sufficient reason.”

12. The Applicant’s motion is premised on an award of costs, where the court based the award on the date when the suit was filed, and the Applicant now argues that the said date of filing suit be changed to 2007, instead of 2013, and the court now proceeds to award costs based on this proposed change.
13. Review of a judgment, award, order or decree only occurs where there is discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made or on account of some mistake or error apparent on the face of the record; if the judgment or ruling requires clarification or for any other sufficient reason.
14. For starters, the issue of when the suit herein was filed, is a matter that has all along been within the knowledge of the Claimant/Applicant, and for this reason, it cannot form a ground for review of the court’s ruling as suggested. The Applicant has also not shown that there is a mistake or error apparent on the face of the ruling for which it seeks review orders.
15. I also concur with the Respondents’ submission that though the instant motion is styled as a review application seeking to have this court review its ruling on the issue of costs, a cursory look at the application confirms that it is actually an appeal on the merit of the decision of the court.
16. For the reasons foregone, I find and hold that the Applicant’s application is devoid of merit, and is hereby dismissed with no orders on costs.
17. It is so ordered.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS
22ND DAY OF MAY, 2025.**

C. N. BAARI

JUDGE

Appearance:

Mr. Munai present for the Claimant/Applicant

Mr. Agwara present for the Respondent

Ms. Esther S-C/A

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