



REPUBLIC OF KENYA



**KENYA LAW**  
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**Mwai v Family Bank Limited (Cause E493 of 2021)  
[2024] KEELRC 868 (KLR) (5 April 2024) (Judgment)**

Neutral citation: [2024] KEELRC 868 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E493 OF 2021**

**SC RUTTO, J**

**APRIL 5, 2024**

**BETWEEN**

**MARTHA MUTHONI MWAI ..... CLAIMANT**

**AND**

**FAMILY BANK LIMITED ..... RESPONDENT**

**JUDGMENT**

1. It is common ground that the Claimant was employed by the Respondent as a Branch Manager-Kikuyu Branch vide a letter of appointment dated 19<sup>th</sup> January 2015 and was subsequently confirmed vide a letter of appointment dated 22<sup>nd</sup> August 2015. According to the Claimant, she performed her duties exemplarily which culminated in various promotions throughout the years.
2. The Claimant's upward trajectory was interrupted when she was issued with a letter dated 26<sup>th</sup> February 2021 regarding certain accounting transactions. This was to mark the beginning of a disciplinary process which culminated in the termination of the Claimant's employment on 22<sup>nd</sup> March 2021. The Claimant has termed her termination unfair, unprocedural and unlawful. On account of the foregoing, the Claimant seeks the following orders against the Respondent:
  - a. A declaration that the termination of the employment of the Claimant by the Respondent is illegal, unprocedural and unfair;
  - b. Damages for wrongful and unfair termination being two months' salary in lieu of notice and 12 months gross salary which totals to Kshs 5,250,000.
  - c. Unpaid salary for the month of March 2021 of Kshs 375,000.
  - d. Accrued and unpaid leave allowance of Kshs 177,904.10.
  - e. Bonus payment for the year ending 31<sup>st</sup> December 2020 amounting to Kshs 375,000.00.



- f. Interest of (b), (c), and (d) above at 14% from the date of filing this suit.
- g. Costs of this suit.
3. Through a Memorandum of Response amended on 9<sup>th</sup> December 2021, the Respondent contends that the disciplinary process it took the Claimant through was lawful, fair and in accordance with the Employment Act and the Constitution of Kenya. The Respondent further avers that the Claimant was terminated for a justifiable cause. Consequently, the Respondent has asked the Court to dismiss the Claim with costs.
4. During the trial, which took place on 13<sup>th</sup> July 2023 and 7<sup>th</sup> November 2023, both parties called oral evidence.

### **Claimant's Case**

5. The Claimant who testified in support of her case, started by adopting her witness statement and further witness statement to constitute her evidence in chief. She further produced all the documents filed on her behalf as exhibits before Court.
6. It was the Claimant's evidence that in a bid to supplement her income, she owns a company called 'Dunmar Petroleum Limited' that deals with the purchase and supply of fuel. Her brother is the major shareholder with a 60% shareholding whilst she is the minority with a 40% shareholding. It was the Claimant's contention that this is a separate legal entity from her.
7. That in the course of her work as a Senior Branch Manager, she tried her best to work diligently, ethically and with utmost integrity whilst observing faithfully the Respondent's Code of Conduct and policies put in place.
8. She was therefore shocked when on 26<sup>th</sup> February 2021, she received a letter from the Respondent asking her to explain in writing the reasons and details of certain transactions.
9. She responded to the said letter, explaining the source and reasons for the cash deposits.
10. The Claimant stated that as required with all employees of the Respondent, she held a staff account being number xxxx, in which she held her salary and personal savings which had accumulated over time.
11. That from time to time, she would break the fixed deposit on her Staff Account, withdraw money from the same to support the fuel business of Dunmar Petroleum Limited and also take care of her financial needs.
12. From the returns of supply of the fuel, Dunmar Limited would reimburse and also pay her part of the profit using cheques and she would deposit the cheques for crediting to her staff account.
13. She vehemently believes that it is not a crime to deposit money into her account, nor does it go against the Respondent's policies.
14. Being a director at Dunmar Petroleum Limited, which is in the Fuel and Energy industry did not at any one-point conflict with the Respondent's trade in banking, neither her duties as a Senior Branch Manager of the Respondent.
15. Moreover, it was well understood that as a staff of the Respondent, she was not allowed to primarily hold staff accounts with other banks and it was a stark violation of the Bank's policy, hence her primary usage of her staff account for her transactions.



16. The Claimant further stated that in her transactions, at no point did she infringe on the Bank's policies as all her transactions were legal and well accounted for.
17. It was thus in further shock that she received a show cause letter, which stated that her explanation regarding the 'unclear transactions' was not satisfactory. As such, she was required to show cause why disciplinary action should not be taken against her.
18. In the letter dated 26<sup>th</sup> February 2021, the term 'unclear transactions' was ambiguous. The Respondent in stating that she was meant to explain the source for the cash deposits, did not particularize what cash deposits were being flagged for her to give an explanation, hence the repetition of the 'unclear transactions' in the show cause letter was still ambiguous.
19. Further, as per the show cause letter, she was to give a response by the close of business on 17<sup>th</sup> March 2021. Despite the short length of time in which she was required to make a response, she replied vide a letter dated 17<sup>th</sup> March 2021. She reiterated the contents of her earlier letter dated 27<sup>th</sup> February 2021.
20. On the same day, she was dismayed to be served with an invitation for a disciplinary hearing the following day.
21. In the Claimant's view, the short length of time in which she was required to make a response and prepare an adequate defence for her disciplinary hearing was not only unreasonable but the same greatly prejudiced her right to a fair hearing.
22. During the Disciplinary hearing, the Committee asked her questions about the deposits in Dunmar Petroleum Limited's account held with the Respondent particularly deposits into the company's account from Luma Stores and Supplies Enterprises Ltd.
23. She contended that she was under no obligation to answer questions concerning another entity that is an entirely different legal person from her.
24. Further, she was blindsided to answer the said questions as the same had not been brought up in the show cause letter nor the invitation to the disciplinary hearing, and that in no way related to her capacity as a Senior Branch Manager with the Respondent nor her staff account.
25. Further, due to the short span of time accorded to her, she did not have adequate time to get all her documents in order to show the trail of the transactions that were supposedly unclear nor was she able to procure a witness for the hearing.
26. On 22<sup>nd</sup> March 2021, she was issued with a letter terminating her employment contract with immediate effect. The reason cited for her termination was her alleged professional misconduct that arose from flouting the Respondent's bank's policies and procedures through unclear transactions in her accounts with the bank.
27. The Claimant believes that the process leading to her disciplinary hearing and eventual termination was a mere facade geared only to reach a predetermined outcome of formally but unlawfully dismissing her.
28. In her further witness statement, the Claimant stated that she only closed the business account as a result of the cloud of suspicion by the Respondent and upon discussion with the Respondent's compliance officer.
29. She further averred that there was no written rule for access that an employee of the Respondent could not operate a business account.



30. She further stated that although in her show cause letter, she was invited to shed light on the unclear transactions in her staff account, at the disciplinary hearing, a different cause was raised altogether which was not part of the show cause letter.
31. She was further asked to explain the nature of the business she had with Luma stores also known as Grainden Millers Ltd and it was on those grounds captured in the disciplinary minutes that she was terminated on grounds of conflict of interest despite the fact that there was no conflict since there was no financial gain.
32. That further, the issue of conflict of interest had never been raised prior to her attendance at the disciplinary hearing.
33. Further, the Kshs 2.9 million queried by the disciplinary committee was paid by Luma to her company. The said payment was in relation to fuel purchases by Dunmar to Luma and they were paid to Dunmar business account and not her staff account. The loans operated by Luma had no relationship whatsoever with the trades made by Dunmar as those are 2 different contractual arrangements by different entities. The fact that Luma had 2 loans which were in arrears of Kshs 9 million had nothing to do with Dunmar.
34. It was her further evidence that the loan portfolio for Luma stores only sat at her branch but the Corporate Relationship Manager was duty bound to ensure the same was fully paid.
35. The Claimant further stated that as a result of the unlawful termination by the Respondent, she has suffered mental pain and anguish, mental distress, inconvenience and psychological injury which the Respondent is wholly liable.

### **Respondent's Case**

36. The Respondent called oral evidence through its Human Resource Business Partner, Ms. Veronica Wanjiru Njuguna, who testified as RW1. Similarly, she adopted her witness statement to constitute her evidence in chief. She further produced all the documents filed on behalf of the Respondent as exhibits before Court.
37. RW1 stated that on or about 26<sup>th</sup> February 2021, the Respondent became aware of transactions on the Claimant's staff account. The nature of the transaction was unclear. The Respondent through its Human Resource department issued the Claimant with a letter dated 26<sup>th</sup> February 2021 seeking an explanation of the transaction.
38. The Claimant responded by a letter dated 27<sup>th</sup> February 2021 in which she stated that the flagged debit transaction of 2020 were funds used for her matrimonial home and in support of a family-owned business.
39. The Respondent considered the Claimant's explanation and found it unsatisfactory. In a letter dated 16<sup>th</sup> March 2021, the Respondent instructed the Claimant to show cause why disciplinary action should not be taken against her. By a letter dated 17<sup>th</sup> March 2021, the Claimant responded to the Notice to Show Cause reiterating the contents of her explanatory letter of 27<sup>th</sup> February 2021.
40. She is aware that the Respondent considered the Claimant's response and determined that there was cause for disciplinary action to be taken against the Claimant. The Respondent therefore notified the Claimant of a disciplinary hearing scheduled for 18<sup>th</sup> March 2021. In addition, the Claimant was informed of the seriousness of the disciplinary proceedings and that she was entitled to be accompanied by a fellow staff.



41. The Claimant attended the disciplinary hearing conducted on 18<sup>th</sup> March 2021. Once again, the Claimant insisted that the flagged debit transaction were funds used for her matrimonial home and to support a family-owned business.
42. The Disciplinary Committee considered the Claimant's representation and recommended that her employment be terminated for knowingly and intentionally acting contrary to the Bank's values and policies.
43. She is aware that the Respondent informed the Claimant that it had resolved to terminate her contract of employment. The Respondent also informed the Claimant of her entitlements and her right of appeal. The Claimant did not exhaust her right of appeal and opted to prematurely institute this suit.
44. Contrary to the Claimant's assertions that the disciplinary hearing was marred by unfairness and impropriety, she is aware that the Respondent provided the Claimant with adequate notice of the allegations levelled against her, she was accorded an opportunity to defend the allegations against her and that her representations were duly considered prior to her dismissal.
45. The Claimant was paid all terminal dues in the amount of Kshs.847,012.50 on 9<sup>th</sup> April 2021 through her Staff Account.
46. In RW1's view, the Claimant's employment was terminated for a valid reason and in accordance with a fair process. The Respondent's actions were at all times taken in accordance with the law, the Claimant's contract of employment and the Human Resource Policy and Procedures.

### **Submissions**

47. The Claimant submitted that the show cause letter issued to her did not disclose any specific charges levelled against her. That further, the show cause letter contained general accusations of unclear transactions without necessarily pointing out the particular policy, procedure or term of her employment contract that she was alleged to have breached. The Claimant stated in further submission that it was difficult for her to tell in particular the exact misconduct she was being accused of in order to respond properly.
48. Placing reliance on the case of *Margaret Auma Ingwe v Kenya Power and Lighting Company Limited* (2015) eKLR, the Claimant submitted that the termination process was only done as a mere show to try and meet the procedural obligation that an employer has. To this end, the Court was urged to find that the Claimant's termination was unfair, unprocedural and unlawful.
49. It was the Claimant's further submission that the composition of the disciplinary committee violated the Respondent's own policies and procedures thus rendering the entire process null and void.
50. That further, according to the facts before this Court, the Respondent has failed to prove that the Claimant committed the alleged offence/violation of company procedures.
51. Referencing the case of *Evans Angwenyi v Nairobi City Water & Sewerage Company Limited* [2020] eKLR, it was the Claimant's further argument that the Respondent has failed to prove a valid and fair reason for dismissing her.
52. The Respondent on its part, submitted that it was justified in terminating the Claimant's employment because she had another business which she operated without its written consent. Further, that the said business was trading with the Respondent's customers and the Claimant failed to disclose this to the Respondent. In the Respondent's view, this was in clear breach of clause 11 of the Claimant's letter of appointment. According to the Respondent, this reason for termination was not flawed.



53. It was the Respondent's further submission that the Claimant attended the hearing on 18<sup>th</sup> March 2021, did not ask for more time and did not state that the time she had been given was too short. That further, she was aware of what she was being accused of since 26<sup>th</sup> February 202 and that the accusation had not taken any new dimension.
54. The Respondent further argued that the process the Claimant was taken through satisfied the test in *Postal Corporation of Kenya v Andrew K. Tanui* (2019) eKLR.

### **Analysis and Determination**

55. Flowing from the pleadings on record, the evidentiary material before me, as well as the rival submissions, the Court isolates the following issues for determination:-
- i. Whether the Respondent has proved that there was a valid and fair reason to terminate the employment of the Claimant;
  - ii. Whether the Claimant was taken through a fair process prior to termination; and
  - iii. Is the Claimant entitled to the reliefs sought?

### **Valid and fair reason for termination?**

56. Section 43(1) of the *Employment Act* (Act) requires an employer to prove the reasons for termination and failure to do so, such termination is deemed to be unfair. Connected to this provision, is Section 45 (2) (a) and (b) of the *Act* which provides that a termination of employment is unfair if the employer fails to prove:-
- a. that the reason for the termination is valid;
  - b. that the reason for the termination is a fair reason-
    - i. related to the employees conduct, capacity or compatibility; or
    - ii. based on the operational requirements of the employer; ...
57. Fundamentally, beyond proving the existence of reasons to justify the termination of an employee from employment, an employer is required to prove that the said reasons were fair, valid and related to the employee's conduct, capacity, compatibility, or its operational requirements.
58. In the instant case, the record reveals that the Claimant was terminated based on professional misconduct. To this end, the Claimant was cited for flouting the Respondent Bank's policies and procedures by undertaking unclear transactions through her accounts with the Bank. According to the Respondent, the Claimant was unable to explain the transactions satisfactorily. The Claimant was further informed that her actions exposed the Bank to a possible financial risk and reputational risk hence the Bank had lost confidence in her.
59. From the record, the Claimant was initially asked through a letter dated 26<sup>th</sup> February 2021, to render an explanation regarding two account transactions being:
- Cash deposit Kshs 1,696,072.00
- Dunmar Petroleum Limited Kshs 3,750,000.00
60. In her explanation dated 27<sup>th</sup> February 2021, the Claimant stated that all the deposits were as a result of prior withdrawals made from her staff account which had accumulated over time and placed on a fixed account since 2016 and rolled severally over time. She further stated that she used the funds in the



year 2020 to process her matrimonial home title deed and support a family run and managed business Dunmar Petroleum Limited.

61. It is the Respondent's case that the Claimant opened an account in the name of Dunmar Limited in clear violation of clauses 8.2.9 and 8.11.8 of its Human Resource Policy and clause 9.11 of its Code of Conduct Policy.
62. The Respondent further stated that the Claimant's company Dunmar Limited had been trading with a customer of the Bank, Grainden Miller Limited which had paid Dunmar Limited a total of Kshs 2.9 million via cheque. That at the time, Graiden Millers had an outstanding loan of Kshs. 9 million with the Respondent's Westlands Branch. The Respondent contends that this was in clear violation of clauses 8.2.9 and 8.11.8 of its Human Resource Policy as read with clause 9.11 of its Code of Conduct which prohibits employees from engaging in other business without written authorization from the Respondent's Managing Director.
63. Notably, the Respondent did not exhibit a copy of its Human Resource Policy and Code of Conduct. Accordingly, it is not possible to ascertain the import of the aforementioned clauses which the Claimant was alleged to have violated. As such, it follows that the Court is not in a position to evaluate the Claimant's alleged conduct in light of the clauses in question and establish whether the reason for her termination from employment was fair and valid within the meaning of Sections 43(1) and 45(2) (a) and (b) of the *Act*.
64. It is further clear from the record of the disciplinary hearing, that the disciplinary committee noted that the Claimant had opened an account with her brother where she was a signatory hence there was a clear case of conflict of interest.
65. Clause 11 of the Claimant's contract of employment addresses the question of conflict of interest in the following manner:

“Except with the written consent of the management, you shall not either directly or indirectly during your service, engage or be concerned in any other service or business or receive any reward, commissions or profit by virtue of your office other than as provided for in this letter of appointment.

You will be required to immediately disclose in writing to the management through the Managing Director all interests in any venture, contracts or arrangements which may be in conflict with any interest of the bank or its sister companies or with the performance of your duties.

  - i. You shall be expected to wholly concentrate all your energies to the good of this organization.
  - ii. No company matters shall be discussed with third parties without the express approval of the managing director.
  - iii. To promote good public relations with the outside world with and every staff member.”
66. The Claimant did not deny that she had incorporated a company by the name Dunmar Petroleum Limited which she co-owned with her brother and which was purely trading in petroleum products. According to the Claimant, there was no conflict of interest as she was not doing lending business in conflict with the Respondent's banking business. During cross-examination, RW1 testified that Dunmar Petroleum Limited deals in petroleum products. She further admitted that banking and petroleum businesses are not in conflict.



67. Indeed, the Respondent did not explain the manner in which the Claimant's petroleum business was in conflict with its banking business. Besides, it is notable that the Claimant had not been asked to show cause why she was operating a business which was in conflict with the Respondent's interest in the banking industry.
68. Further, it is noteworthy that the Respondent did not explain the manner in which the account transactions undertaken by the Claimant were unclear. This was coupled by the fact that the account transactions in question were identified in general terms. As such, the Claimant's explanation regarding the manner in which she had operated her accounts was also made in general terms. Indeed, it is notable that there was no indication, however slight, on the part of the Respondent, as to the extent to which the Claimant's account transactions were unclear.
69. All in all, I am led to conclude that the Respondent has not demonstrated before this Court that it did have a fair and valid reason to terminate the Claimant's employment within the meaning of Section 45(2) (a) and (b) of the Act. To this end, the Claimant's termination from employment was not substantively justified.

### **Fair process?**

70. According to Section 45 (2) (c) of the Act, an employer is required to prove that it terminated an employee's employment in accordance with process that is fair. The specific requirements of a fair process are encapsulated under Section 41(1) of the Act thus: -

41(1) Subject to section 42(1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during this explanation.

71. From the record, the Claimant was issued with a Notice to Show Cause dated 16<sup>th</sup> March 2021, asking her to show cause why disciplinary action should not be taken against her. Her response was required by close of business the following day being 17<sup>th</sup> March 2021. The Claimant reiterated the response she had given in her explanation of 27<sup>th</sup> March 2021.
72. On 17<sup>th</sup> March 2021, the Claimant was asked to attend a disciplinary hearing scheduled for 18<sup>th</sup> March 2021. According to the Claimant, this notice was short.
73. It is worth pointing out that the law does not prescribe the applicable timeframe with regards to the appropriate notice for a disciplinary hearing. Further, the Respondent's Human Resource Policies and Procedures Manual does not stipulate the notice period to be given prior to a disciplinary hearing. Therefore, what amounts to a reasonable notice depends on the circumstances of each case.
74. In this case, the Court finds that the notice period given to the Claimant to appear for the disciplinary hearing was insufficient and relatively short. This is noting that the issues raised against the Claimant were grave in nature. Indeed, the Claimant was advised as much in the letter inviting her for the disciplinary hearing. It thus follows that the Claimant needed time to prepare adequately for the disciplinary hearing and more so psychologically, noting that her job was on the line.



75. In the case of *Nebert Mandala Ombajo vs Institute of Certified Public Accountants of Kenya (ICPAK)*, Nakuru Civil Appeal No. 62 of 2018, the Court of Appeal had this to say with regards to the adequacy of the notice in disciplinary hearings: -

“The respondent has not justified the urgency in undertaking the disciplinary proceedings on the 4th March, 2014 when the letters were only written on 3rd March, 2014. [27] Disciplinary proceedings are a grave matter for an employee as the consequences may be catastrophic to the employee’s life. In the case of the appellant, the complaints against him were serious, and there is no doubt that he needed sufficient time to prepare psychologically, and if need be, get the best advice that he could. Any prejudice to the respondent by having the appellant in his place of work could easily have been addressed by sending the appellant on compulsory leave, or interdicting him during the pendency of the disciplinary hearing, so that both the appellant and the respondent would have had time to reflect on and prepare to address the issues arising in the disciplinary process. [28] The fact that the appellant nonetheless, did his best to respond to the allegations made against him and attended the disciplinary proceedings on the due date, did not ameliorate the prejudice that was caused to him by the inadequate notice. It was oppressive, unfair, and unjust, for the respondent to serve the appellant with a letter for a disciplinary hearing that was to take place the next morning. Such haste reduced the disciplinary hearing to a mere formality to achieve that which the respondent had already predetermined. There was no procedural justice and this vitiated the whole disciplinary process.”

76. I reiterate and wholly apply the above determination to the instant case. Indeed, the Respondent did not stand to suffer any prejudice by giving the Claimant sufficient notice to appear for the disciplinary hearing. With the timeframe given, it is highly improbable that the Claimant had time to process the allegations against her and prepare adequately.
77. What’s more, the Respondent’s accusations against the Claimant were made in general terms. In this regard, the specific transactions the Claimant was being asked to render an explanation on, were not clear at all. Again, it is highly probable that the Claimant’s defence was impaired given the insufficiency of the details of the accusations against her.
78. Therefore, in as much as the Respondent appears to have complied with the procedural requirements under Section 41 of the *Act* at face value, the spirit of the said provision was not fulfilled. In the end, the process was procedurally unfair against the Claimant.
79. To this end, I cannot help but conclude that the termination of the Claimant was neither fair nor lawful hence was unjustified in all respects.

### **Appropriate Reliefs**

80. As the Court has found that the Claimant’s termination was substantively unjustified and procedurally unfair, she is awarded compensatory damages equivalent to six (6) months of her gross salary. This award has considered the length of the employment relationship as well as the circumstances leading to the termination of the Claimant’s contract of employment.
81. The Claimant has also sought to be paid bonus for the year 2020. In support of her claim, she exhibited a copy of an Internal Memorandum dated 24<sup>th</sup> March 2021 from the Respondent’s Chief Human Resource Officer through which he informed all staff of the Respondent that the Board had approved a bonus payout of 1.5 times based on September 2020 payroll. He further stated upon the conclusion of the audited financial accounts, the remaining one month payroll pot would be paid together with the



March salary. That further, the bonus payout would be based on individual performance and would be paid on a prorated basis to all staff who were on the payroll on or before 30<sup>th</sup> September 2020.

82. It is not in dispute that the Claimant was on the Respondent's payroll as at 30<sup>th</sup> September 2020. Further, there was no evidence that her performance was wanting as to disentitle her to the bonus pay. As such, I have not discerned any reason why the Claimant should not be paid bonus for the year 2020 as claimed.
83. The claim with regards to notice pay, leave and salary for days worked is declined as the Claimant admitted during cross-examination that she received the said payments.

### **Orders**

84. It is against this background that the Court enters Judgment in favour of the Claimant in the following manner: -
- a. A declaration that the termination of the Claimant's employment was unfair.
  - b. The Claimant is awarded compensatory damages in the sum of Kshs 2,250,000.00 being equivalent to six (6) months of her gross salary.
  - c. The Claimant is awarded bonus pay for the year 2020 being the sum of Kshs 375,000.00.
  - d. The total award is Kshs 2,625,000.00.
  - e. Interest on the amount in (d) at court rates from the date of Judgment until payment in full.
  - f. The Claimant shall also have the costs of the suit.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 5<sup>TH</sup> DAY OF APRIL 2024.**

.....  
**STELLA RUTTO**

**JUDGE**

**In the presence of:**

For the Claimant Mr. Maina instructed by Ms. Macharia

For the Respondent Ms. Nimo instructed by Mr. Angwenyi

Court Assistant Millicent Kibet

### **Order**

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of the *Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the *Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

**STELLA RUTTO**



**JUDGE**

