



**Morara Apiemi & Nyang’ito Advocates v Nyamanyara (Appeal  
E168 of 2021) [2023] KEELRC 1460 (KLR) (8 June 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1460 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
APPEAL E168 OF 2021  
MN NDUMA, J  
JUNE 8, 2023**

**BETWEEN**

**MORARA APIEMI & NYANG’ITO ADVOCATES ..... APPELLANT**

**AND**

**WESLEY OMBAYE NYAMANYARA ..... RESPONDENT**

**RULING**

1. Application dated November 15, 2022 seeks an order that the Court be pleased to review and set aside the conditional order issued on October 13, 2022 to the effect that half of the decretal sum be paid to the respondent owing to an error apparent on the face of the record.
2. That the application is on the grounds that the two limb order directing the applicant to pay half the decretal sum to the respondent within 30 days and deposit the balance of the decretal sum in an interest earning joint account in the names of the advocates within the same period is a mistake apparent on the face of the record.
4. That in the event the Appeal succeeds the amount paid to the respondent may not be recovered.
5. That the Court reviews its Ruling in terms of Rule 33(1) (b) of the *Employment and Labour Relations Court (Procedure Rules)*, 2016.
6. The application is opposed by the respondent and the parties have filed written submissions in respect therefore which the Court has carefully considered.
7. The Court has also carefully considered its Ruling dated October 13, 2022 and does not discern any error apparent on the face of the Ruling.
8. The determination by the Court is a finding of law and fact that may be only set aside by an appellate Court.



9. The applicant has not laid any basis in the application and the supporting affidavit that demonstrate that the Court has made any patent error on the face of the record. If the applicant is dissatisfied with the ruling of the Court, they ought to have filed an appeal against the Ruling and not seek to have the Court sit on appeal of its Ruling.
10. The application is an appeal guised as a review application. The Court exercised its discretion in the matter based on the circumstances of the case and lack jurisdiction to sit on appeal of its own decision.
11. The application is dismissed with costs.

**DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 8<sup>TH</sup> DAY OF JUNE, 2023.**

**MATHEWS N. NDUMA**

**JUDGE**

**Appearances**

**Mr. Wanyeki for applicant**

**Waiyaki for Respondent**

**Ekale – Court Assistant**

