



**Ireri v National Bank of Kenya (Petition E019 of 2022)
[2023] KEELRC 3339 (KLR) (8 December 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3339 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION E019 OF 2022
SC RUTTO, J
DECEMBER 8, 2023**

BETWEEN

NICKSON MUCANGI IRERI PETITIONER

AND

NATIONAL BANK OF KENYA RESPONDENT

RULING

1. The petitioner/applicant has moved this court vide a notice of motion application dated July 25, 2023, through which he seeks the following orders:
 1. Spent
 2. That this Court be pleaded(sic) to reinstate the application herein.
 3. That costs of this application be in the cause.
2. First things first, it is clear from the face of the application that the applicant seeks to reinstate an application that is nonexistent. In as much as the grounds in support of the Application make reference to the suit that was dismissed on July 25, 2023, the order sought is not capable of being granted in its present form.
3. As it is, the Petitioner has not sought to reinstate the Petition that was dismissed on July 25, 2023. Suffice to say, the Application as framed, does not disclose any prayer that the Court is capable of granting at this point in time.
4. On this issue, I agree with the Respondent's submissions that there being no prayer for reinstatement of the Petition and the Petitioner having failed to amend his Application accordingly, this Court does not have the power to create a prayer not sought in the Notice of Motion and proceed to grant it.
5. In view of the foregoing, I cannot help but strike out the Application with no orders as to costs.



DATED, SIGNED AND DELIVERED AT NAIROBI THIS 8TH DAY OF DECEMBER, 2023.

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STELLA RUTTO

JUDGE

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 15th March 2020 and subsequent directions of 21st 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

