



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT KISUMU

ELRC Petition No. 22 Of 2018(as consolidated with No. 11,12,13,

14,15,16,17,18,19,20,21,23,24,25,26,27,28,29 and 36 of 2018.

(Before Hon. Justice Mathews N. Nduma)

KENNEDY RUCHO OBUSURU.....PETITIONER

VERSUS

NATIONAL POLICE SERVICE COMMISSION.....RESPONDENT

RULING

1. The applicant prays for review and setting aside of the judgment dated and delivered on 7th March 2019 in respect of the applicant, Kennedy Rucho Obusuru, the petitioner in petition number 22 of 2018 consolidated with petitions number 11 to 29 and 36 of 2018.
2. The application is based on grounds set out on the face of the notice of motion dated 18th March 2019 to wit that, there exists new and important facts which the court ought to have considered at the time of judgment. That the applicant has not preferred any appeal against the judgment and that the defendant is likely to suffer irreparable loss and damage.
3. The applicant relies on factual deposition in the supporting affidavit sworn to by the applicant on 18th March 2019.
4. The applicant does not disclose any new and important fact that may warrant the court to review and/or set aside its judgment delivered on 7th March 2019.
5. Rule 33 of the E&LRC (Procedure) Rules provides:
 - (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 evidence 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”*
6. The application does not meet the threshold set in the aforesaid rule. The application is misconceived and lacks merit.
7. Accordingly, the application is dismissed with no order as to costs.

Ruling Dated, Signed and delivered at Nairobi this 16th day of April, 2020

Mathews N. Nduma

Judge

ORDER

In view of the declaration of measures restricting court of operations due the COVID-19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on 15th March 2020, this ruling has been delivered to the parties online with their consent. 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 has 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 18 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.

Mathews N. Nduma

Judge

Appearances

Mr. Mogere for Applicant

M/S Opio for Respondent

Chrispo – Court Clerk