



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO 715 OF 2012

PATRICIA WANGUI MUNENE.....CLAIMANT

VERSUS

EQUITY BANK LIMITED.....RESPONDENT

RULING

1. The Claimant's application dated 17th May 2016 seeks a review of the judgment delivered by this Court on 20th November 2015. The application is based on the following grounds:

- a) The judgment by the Court left a lot of uncertainties and window for different interpretations, thereby causing injustice to the Claimant;
- b) That the judgment lacks in clarity and other material components;
- c) That by failing to award the claimant exemplary damages for discrimination, the Court failed to give due regard to the maxim in equity *ibi jus ibi redium* (there is no wrong without a remedy).

2. The power of the Court to review its own decision is donated by Section 16 of the Employment and Labour Relations Court Act and Rule 33 of the Procedure Rules. Rule 33(1) provides as follows:

(1) A person who is aggrieved by a decree or an order of the Court may apply for a review of the award, 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; or

(b) on account of some mistake or error apparent on the face of the record; or

(c) on account of the award, judgment or ruling being in breach of any written law; or

(d) if the award, judgment or ruling requires clarification; or

(e) for any other sufficient reasons.

3. The Claimant's application is premised on failure by the Court to grant her exemplary damages. In reaching its decision on this head, the Court considered the remedies available under the employment law applicable to the Claimant's case, being the repealed Employment Act (Cap 226). Any error made in this

regard would be a misapprehension of the law and it seems to me that this is a matter for appeal and not review.

4. For this reason the Claimant's application dated 17th May 2016 is dismissed with no order for costs.

5. Orders accordingly.

DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 2ND DAY OF DECEMBER 2016

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JUDGE

Appearance:

Miss Mwathe for the Claimant

Miss Kisaka for the Respondent