



**Attorney General v Halal Meat Products Limited (Application
22 of 2016) [2023] KESC 9 (KLR) (17 February 2023) (Ruling)**

Neutral citation: [2023] KESC 9 (KLR)

**REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA
APPLICATION 22 OF 2016
I LENAOLA, SCJ
FEBRUARY 17, 2023**

BETWEEN

ATTORNEY GENERAL APPLICANT

AND

HALAL MEAT PRODUCTS LIMITED RESPONDENT

*(Being an application for review of the decision of
the Deputy Registrar dated 7th September, 2016)*

Whether the Deputy Registrar of the Supreme Court had the jurisdiction to decline to admit a party's record of appeal

The instant application sought review of the decision of the Deputy Registrar declining to admit the applicant's record of appeal. The court held that by restating the relevant rules and by giving reasons as to why the applicant's pleadings were declined, the Deputy Registrar was cogent and that was explanatory enough and he did not run afoul of any law.

Reported by Kakai Toili

Jurisdiction - jurisdiction of the Deputy Registrar of the Supreme Court - jurisdiction to decline to admit a party's record of appeal - whether the Deputy Registrar had the jurisdiction to decline to admit a party's record of appeal - Supreme Court (Amendment) Rules, 2016 (repealed), rules 4A(1)(b) and 4A(2).

Brief facts

The applicant filed the instant application seeking review of the decision of the Deputy Registrar delivered on September 7, 2016 declining to admit the applicant's record of appeal and that should such review be granted, the court should permit the applicant to file its record of appeal within a specified time. The applicant claimed that the Deputy Registrar lacked the power to reject a record of appeal, as his powers were only limited to rejecting pleadings and that the Deputy Registrar erred in declining to allow the record of appeal by claiming that the applicant was not entitled to file its appeal as of right but should have instead sought certification before the Court of Appeal.



The respondent averred that the intended appeal did not involve a matter of constitutional interpretation or application and that the applicant's application was unmeritorious as it sought to undermine the principle of finality in legal proceedings. The respondent further averred that the Deputy Registrar was vested with power under rule 4A(2) of the to reject pleadings and therefore acted judicially.

Issues

- i. Whether the Deputy Registrar of the Supreme Court had the jurisdiction to decline to admit a party's record of appeal.

Relevant provisions of the Law

Supreme Court (Amendment) Rules, 2016 (repealed)

Rule 4A(1) - The role of the Registrar shall be to—

b. decline to admit pleadings that are not in accordance with the Constitution, the Act, the relevant rule or the court's practice directions for filings;

Rule 4A (2) - Any party aggrieved by a decision of the Registrar made under this rule may apply to a single judge of the court for a review of the decision.

Held

1. The Deputy Registrar had the opportunity to review and consider the record of appeal that the applicant intended to be admitted and proceeded to issue reasons that were explanatory as to why the intended appeal could not be admitted. Furthermore, the Deputy Registrar then proceeded to restate the applicable law when declining to admit the applicant's record of appeal.
2. By restating the relevant rules and by giving reasons as to why the applicant's pleadings were declined, the Deputy Registrar was cogent and that was explanatory enough and he did not run afoul of any law. He also correctly exercised his jurisdiction and there was no reason to fault his decision.

Application dismissed.

Orders

No order as to costs.

Citations

Statutes

1. Constitution of Kenya (2010) — Article 48, 50, 163 (4) (a) — Interpreted
2. Constitution of Kenya (Repealed) — Section 75 — Interpreted
3. Supreme Court (Amendment) Rules, 2016 (Repealed) (Act No 7 of 2011 Sub Leg) — Rule 4A (2) — Interpreted
4. Supreme Court Rules, 2020 (Act No 7 of 2011 Sub Leg) — Rule 6 (1) (b) — Interpreted

Advocates

Mr Kamau for Applicant

Mr Wangila for Respondent

RULING

Representation

Mr Kamau for the applicant

(The Attorney General)

Mr Wangila for the respondent

(Abib & Associates Advocates)



1. Upon perusing the notice of motion by the Attorney General, the applicant, dated November 16, 2016 and filed on November 18, 2016 brought pursuant to rule 4(A)(2) of the [Supreme Court \(Amendment\) Rules, 2016](#) (repealed) for review of the decision of the Deputy Registrar delivered on September 7, 2016 declining to admit the applicant’s record of appeal and should such review be granted, that the court permit the applicant to file its record of appeal within a specified time; and
2. Upon considering the grounds in support of the application and the supporting affidavit of Kepha Onyiso, state counsel in the Office of the Attorney General wherein the applicant claims that the Deputy Registrar lacks the power to reject a record of appeal, as his powers are only limited to rejecting pleadings; that the applicant was entitled to file its appeal as of right to this court under article 163(4) (a) of the [Constitution](#); that the Deputy Registrar erred in declining to allow the record of appeal by claiming that the applicant was not entitled to file its appeal as of right but should have instead sought certification before the Court of Appeal; and
3. Upon also considering the applicant’s submissions dated November 14, 2016 wherein the applicant reiterates that he was entitled to file his appeal from the Court of Appeal as of right since it involved interpretation and application of the provisions of section 75 of the repealed [Constitution](#) on the right to property; that the Deputy Registrar’s decision declining to admit the record of appeal amounted to a violation of articles 48 and 50 of the [Constitution of Kenya](#); that the Deputy Registrar lacks power and/or jurisdiction to interrogate whether the applicant’s record of appeal offended the law on merits and; that the Deputy Registrar’s decision was therefore *ultra vires* in the circumstances; and
4. Further considering the respondent’s replying affidavit sworn by Zainabu Mohammed on November 30, 2022, the Director of the respondent herein and the respondent’s written submissions dated December 1, 2022 contending that the intended appeal does not involve a matter of constitutional interpretation or application; that the applicant’s application is unmeritorious as it seeks to undermine the principal of finality in legal proceedings and that the Deputy Registrar was vested with power under rule 4A(2) of the [Supreme Court \(Amendment\) Rules 2016](#) to reject pleadings and therefore acted judicially.
5. In the above context, I now opine as follows:
 - i. Rule 4A(1)(b) of the [Supreme Court \(Amendment\) Rules, 2016](#) (repealed), which is also provided for under rule 6(1)(b) of the [Supreme Court Rules, 2020](#) provides that:
 - a. ...
 - b. decline to admit pleadings that are not in accordance with the Constitution, the Act, the relevant rule or the court’s practice directions for filings”
 - ii. Rule 4A(2) of the [Supreme Court \(Amendment\) Rules, 2016](#) (repealed) which is also found under rule 6(2) of the [Supreme Court Rules 2020](#) then reads:

“ Any party aggrieved by a decision of the Registrar made under this rule may apply to a single judge of the court for a review of the decision.”
 - iii. I note, in that regard, that the Deputy Registrar had the opportunity to review and consider the record of appeal that the applicant intended to be admitted and proceeded to issue reasons that were explanatory as to why the intended appeal could not be admitted. Furthermore,



the Deputy Registrar then proceeded to restate the applicable law in declining to admit the applicant's record of appeal.

iv. It is my view that, by restating the relevant rules and by giving reasons as to why the applicant's pleadings were declined, the Deputy Registrar was cogent and I reiterate that this was explanatory enough and he did not run afoul of any law. He also correctly exercised his jurisdiction and I see no reason to fault his decision. I therefore decline to grant the orders sought.

6. Accordingly, I make the following orders:

- a. The notice of motion dated November 16, 2016 is hereby dismissed.
- b. There shall be no order as to costs.

7. It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 17TH DAY OF FEBRUARY, 2023.

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I LENAOLA

JUSTICE OF THE SUPREME COURT

I certify that this is a true copy of the original

REGISTRAR,

SUPREME COURT OF KENYA

