



**Gichuru v Package Insurance Brokers Ltd (Petition (Application)
36 of 2019) [2020] KESC 19 (KLR) (Civ) (3 September 2020) (Order)**

Simon Gitau Gichuru v Package Insurance Brokers Ltd [2020] eKLR

Neutral citation: [2020] KESC 19 (KLR)

**REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA**

CIVIL

PETITION (APPLICATION) 36 OF 2019

**DK MARAGA, CJ & P, PM MWILU, DCJ & VP,
MK IBRAHIM, SC WANJALA & I LENAOLA, SCJJ**

SEPTEMBER 3, 2020

BETWEEN

SIMON GITAU GICHURU APPELLANT

AND

PACKAGE INSURANCE BROKERS LTD RESPONDENT

ORDER

1. The Petitioner filed a Notice of Motion on 1st October, 2019. It is brought pursuant to the provision on Article 163(4) of the Constitution, Section 21 of the *Supreme Court Act* Rules 23, 33(6) and 54 of the *Supreme Court Act, Rules* 2012.
2. The Application in the main seeks extension of time to file Supplementary Record of Proceedings to bring in the certified Order and typed proceedings of the Court of Appeal which could not be obtained within the Statutory period to file Supplementary record of appeal despite many visits to the registry for the same and writing numerous letters seeking them. The application is supported by the affidavit of the Petitioner herein that as at the time of filing the application, the record was yet to be obtained – see para 4.
3. The Petitioner filed submission dated 19th December, 2019 on his application in compliance with directions given on 4th December, 2019. The Respondent did not file any submissions despite several mentions before the Deputy Registrar. On 28th January, learned Counsel filed a Consent Order dated 27th January, 2020 on the following terms:-

“By consent it is hereby agreed that:



1. The Appellant's application dated 27th September, 2019 be allowed as prayed
.....”

4. On 6th February, 2020, there was a Mention during which the Deputy Registrar confirmed the filing of the Consent for adoption of the court. The record shows that the Deputy Registrar stated to the Counsel that written submissions be filed and a further mention be on 3rd March, 2020.
5. The Honourable Chief Justice and President of this Court empanelled this Bench to determine the Application.
6. Upon consideration of this matter and the record and reference to the Deputy Registrar we have ascertained that the Respondent has not to date filed any response in opposition citing the existence of the Consent filed herein.
7. As a result, it is our considered view that we ought to adopt and endorse the said consent as an order of this court to attain the parties' wishes and save precious judicial time.
8. We therefore vacate herewith the orders for filing of written submissions and delivery of any ruling in respect thereof. We hereby adopt and endorse the Consent dated 27th January, 2020 as an order of the Court.
9. For this order to be wholesome and effective order, we further direct the Appellant to file and serve the Supplementary Record of Appeal within thirty (30) days from the date hereof. The Deputy Registrar of this court to follow-up with the Court of Appeal Registry to obtain the certified order and proceedings of the said court.

Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 3RD DAY OF SEPTEMBER, 2020

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D. K. MARAGA

CHIEF JUSTICE & PRESIDENT OF THE SUPREME COURT

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P. M. MWILU

DEPUTY CHIEF JUSTICE & VICE PRESIDENT OF THE SUPREME COURT

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M. K. IBRAHIM

JUSTICE OF THE SUPREME COURT

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S. C. WANJALA

JUSTICE OF THE SUPREME COURT

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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**

