



**Mumma v Kenya Anti-Corruption Commission (Civil Appeal
240 of 2020) [2025] KEHC 4780 (KLR) (Civ) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 4780 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL 240 OF 2020

TW CHERERE, J

MARCH 27, 2025

BETWEEN

CATHERINE MUMMA APPELLANT

AND

KENYA ANTI-CORRUPTION COMMISSION RESPONDENT

RULING

Background

1. The Respondent and Appellant are the Plaintiff and Defendant respectively in Milimani CMCC No. 5018 of 2005, where the Respondent sued for the recovery of KES. 903,000 from the Appellant. The amount is alleged to represent sitting allowances that the Appellant, as a member of a Task Force appointed to address issues related to the HIV/AIDS pandemic in Kenya, unlawfully received.
2. The case has a prolonged history with multiple directions and orders issued by the trial court over the years. Notably, the trial court directed the Appellant to file her witness statements by 15th October 2011. However, due to the Appellant's failure to comply with these orders, time was extended multiple times, and ultimately, on 15th May 2015, the trial court ruled that the Appellant would only proceed with her case based on her pleadings.
3. A subsequent ruling delivered on 15th September 2020 by the trial court dismissed the Appellant's application to set aside the orders that locked her out from filing her witness statements.
4. As a result of the ruling, the Appellant filed an interlocutory appeal, contesting the trial magistrate's refusal to extend the deadline for filing and serving witness statements.
5. The Appellant's appeal was dismissed by Ongeri J. in a judgment dated 23rd May 2023, prompting the Respondent to file the present application.



6. The Respondent has filed a notice of motion dated 20th February 2025, brought under Section 1A, 1B, 3A, and 99 of the *Civil Procedure Act* and Order 51 Rule 1 of the Civil Procedure Rules.
7. In this application, the Respondent seeks various reliefs, including amendments, clarifications, and declarations regarding the implications of the judgment delivered by Ongeru J. on 23rd May 2023, which dismissed the Appellant's appeal. Additionally, the Respondent requests directions on the interpretation of the court's directive that the case to be remitted to the trial court for the continuation of the hearing.
8. The application is premised on the grounds stated therein and is supported by the affidavit of Calystus Juma, sworn on 20th February 2025. The Respondent reiterates the background of the case and the grounds outlined in the application.
9. The Appellant, in her replying affidavit, concedes that her appeal was dismissed but argues that the dismissal should not prevent her from presenting her defence and opposing the Respondent's claim before the trial court.
10. I have considered the application in light of the court record, the affidavits on record and the written submissions filed on behalf of the Respondent.

Analysis and Determination

11. The primary issue in this application is whether the Respondent is entitled to the reliefs sought, especially in light of the judgment delivered on 23rd May 2023 by Ongeru J.
12. Undoubtedly, the dismissal of the appeal effectively reinstated the parties to their position as of 15th May 2018, when the trial court denied the Appellant an extension of time to file her witness statements.
13. The Respondent seeks clarification from the court regarding the judgment delivered on 23rd May 2023, specifically whether the trial court was directed to allow the Appellant to present witnesses.
14. Having dismissed the Appellant's appeal, the court directed the case to proceed, leaving it to the trial court to determine the appropriate course of action in light of its orders issued on 15th May 2015.
15. Consequently, I find that this court need not prescribe how the trial should proceed other than to reaffirm that the trial court's orders issued on 15th May 2015 remain in force unless otherwise reviewed or set aside by the trial court.
16. For the reasons set out above, I find that the judgment of 23rd May 2023 is unequivocal and does not require any amendments, interpretations, or declarations.
17. Accordingly, the application dated 20th February 2025 is dismissed with costs awarded to the Appellant.

DELIVERED AT NAIROBI THIS 27TH DAY OF MARCH 2025

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Mr. Wandere

For Appellant - Mr. Chege for Issa & Co. Advocates

For Respondent - Mr. Mwashuruti for EACC

