



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

Safari v KCB Bank Kenya Ltd & another (Environment & Land Case E028 of 2022) [2025] KEELC 3017 (KLR) (27 March 2025) (Ruling)

Neutral citation: [2025] KEELC 3017 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT & LAND CASE E028 OF 2022**

**YM ANGIMA, J
MARCH 27, 2025**

BETWEEN

MARY MUKABADEGE SAFARI PLAINTIFF

AND

KCB BANK KENYA LTD 1ST DEFENDANT

SERAH KALUME KITSAUMBI 2ND DEFENDANT

RULING

1. By a notice of motion dated 4.10.2024 expressed to be based upon Sections 1A, 1B, 3C, 63 (e) and 80 of the Civil Procedure Act (Cap 21) and Order 45 Rule 1 of the Civil Procedure Rules the plaintiff sought a review of the judgment and decree of this court dated 26.09.2024.
2. The motion was based upon the grounds set out on the face of the motion and the contents of the supporting affidavit sworn by the plaintiff on 4.10.2024. The application sought a correction to the description of the Land Registrar who was to facilitate execution of part of the decree.
3. It was contended that that although the plaintiff had prayed for orders against the Land Registrar - Mombasa in her pleadings, the court had granted them as against the Land Registrar - Kilifi County. It was contended that there was an error opponent on the face of the record hence the same should be corrected through the application for review.
4. There is no indication on record of the defendants having filed a response to the application for review. There is also no indication on record of the defendants having filed any submissions to the application. The plaintiff filed written submission dated 22.12.2024 in support of her application.
5. The court has considered the plaintiff's motion dated 4.10.2024, the submissions in support of the application and the material on record. It is evident from the plaint on record that the plaintiff had



prayed for certain orders against the Land Registrar - Mombasa. However, when the plaintiff's claim was allowed, the court granted orders against the Land Registrar – Kilifi for no apparent reason.

6. The court is thus satisfied that the plaintiff has demonstrated the existence of an error apparent on the face of the record within the meaning of Order 45 Rule 1 of the Civil Procedure Rules. The material on record shows that the suit property is located in mainland North within Mombasa County hence the Land Registrar who should cancel the 1st defendant's registration and register the plaintiff as proprietor should be the Land Registrar based at Mombasa.
7. The upshot of the foregoing is that the court finds merit in plaintiff's application for review of the decree. As a consequence, the notice of motion dated 4.10.2024 is hereby allowed in terms of orders 2 and 3 of the application with no orders as to costs.

RULING DATED AND SIGNED AT MOMBASA AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS ON THIS 27TH DAY OF MARCH 2025.

In the presence of:

Court assistant Gillian

Plaintiff in person

Mr. Amakobe for the 1st defendant

No appearance for the 2nd defendant

.....

Y. M. ANGIMA

JUDGE

