



**Metho v Governor Nyandarua & 4 others; Ethics & Anti-Corruption Commission
& 3 others (Interested Parties) (Constitutional Petition E012 of 2024)
[2025] KEHC 8897 (KLR) (Constitutional and Human Rights) (24 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8897 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CONSTITUTIONAL AND HUMAN RIGHTS
CONSTITUTIONAL PETITION E012 OF 2024**

KW KIARIE, J

JUNE 24, 2025

BETWEEN

SENATOR JOHN MUHIA METHO PETITIONER

AND

THE GOVERNOR NYANDARUA 1ST RESPONDENT

**EXECUTIVE COMMITTEE MEMBER FOR FINANCE & ECONOMIC
DEVELOPMENT 2ND RESPONDENT**

COUNTY ATTORNEY NYANDARUA COUNTY 3RD RESPONDENT

COUNTY GOVERNMENT OF NYANDARUA 4TH RESPONDENT

KENYA ALLIANCE INSURANCE LTD 5TH RESPONDENT

AND

ETHICS & ANTI-CORRUPTION COMMISSION INTERESTED PARTY

**PUBLIC PROCUREMENT REGULATORY AUTHORITY INTERESTED
PARTY**

THE CONTROLLER OF BUDGET INTERESTED PARTY

DIRECTOR OF CRIMINAL INVESTIGATIONS INTERESTED PARTY



RULING

1. The applicant herein moved the court via a Notice of Motion dated 8 April 2025. This application was made under sections 1A, 1B, and 80 of the Civil Procedure Act, Order 45 Rule 1 of the Civil Procedure Rules, and Article 50(1) of the Constitution of Kenya. The applicant seeks the following orders:
 - a. That pending the inter partes hearing and determination of this application, this honourable court be pleased to issue an order of maintenance of status quo obtaining from any implementation of the Mediation Agreement dated 20/06/2024 and adopted on 28th October 2024.
 - b. This honourable court be pleased to review, vary, vacate, discharge and/or set aside its ruling delivered on 7th April 2025, striking out the petition dated 24th October 2024 and direct that the application and petition be heard on merit.
 - c. Pending the inter partes hearing and determination of this petition, this honourable court will be pleased to issue an order to maintain the status quo, preventing any implementation of the mediation agreement dated 20/06/2024 and adopted on 28th October 2024.
 - d. The Costs of this application be provided for
2. The application was premised on the following grounds:
 - a. The Court delivered its ruling on the 7th April 2025, striking out the petition dated 25th October 2024 filed by the applicant herein and the preliminary objection dated 5th November 2024 filed by the 3rd respondent herein.
 - b. The court, in striking out both the petition and the preliminary objection, understood that the case that gave rise to the petition and the preliminary objection is in Nyahururu, and the parties were to make the necessary applications in Nyahururu High Court Miscellaneous Application No. 023 of 2024.
 - c. Miscellaneous application No. 023 of 2024 was filed in Nyahururu High Court for formality purposes of Adoption of the mediation Agreement dated 20th June 2024.
 - d. The applicant herein had filed an application amended on 22nd July 2024 pursuant to orders of the Court issued on 18/7/2025 seeking to be enjoined in the matter being Miscellaneous Application No. 023 of 2024 but on the 23/10/2024 the High Court sitting at Nanyuki declared lack of jurisdiction and therefore directed that the application dated 28/6/2024 for adoption of the purported mediation agreement dated 20/6/2024 be heard on the 28/10/2024.
 - e. in dismissing the applicant's amended application dated 22nd July 2024, the court found that the applicant's issues could be handled in another forum, which he chose to be the Constitutional Court, where his issues could be canvassed.
 - f. That there is a mistake or error apparent on the face of the ruling as the issues raised by the applicant in his petition cannot be canvassed in a miscellaneous application which in any event was filed purely for adoption of the mediation agreement and the Court also made a cognizance on lack of jurisdiction in handling any other issue thereafter.



- g. The Court at Nyahururu also took cognizance of the provisions of the law that a party affected by a private settlement order could apply to set aside the agreement if the party was a party to the agreement and that any other party with a claim or interest either or both parties in a matter settled through mediation has the usual latitude to sue in the usual appropriate forum be it in the civil or criminal proceedings.
 - h. The applicant, in exercise of his constitutional right, filed the current petition to challenge the purported mediation agreement dated 20/6/2024, which is sought to be adopted. The agreement is illegal, null, and void ab initio as it is founded on fraud and plain criminal objectives and fits within the definition of corruption and economic crimes under the *Ethics and Anti-Corruption Commission Act* No. 22 of 2011.
 - i. The striking out of the petition has occasioned a great miscarriage of justice to the members of Nyandarua County as the challenge private mediation agreement is set for adoption any time soon and which may lead to loss of colossal amount of money amounting to Kenya Shillings Forty Million (Kshs 40,000,000/-) and which is public funds and therefore need to preserve the status quo.
 - j. The mediation agreement dated 20/06/2024 was adopted as an order of the Court on 28th October 2024 vide Nyahururu Miscellaneous Application No. 023 of 2024, thus the great urgency of this matter, but has not been implemented due to the Nyandarua High Court issuing orders of maintenance of status quo.
 - k. In the interest of justice, the ruling delivered on 7th April 2025 be reviewed/set aside, varied and/or vacated and the application and petition dated 24th October 2024 be heard on merit.
3. The respondent opposed the application on the following grounds:
- a. That the applicant's notice of motion application seeking review of the ruling of the court delivered on 7th April, 2025, does not meet the legal threshold for review under Order 45 of the Civil Procedure Rules, 2010, as the applicant has not demonstrated any manifest error on the face of the record.
 - b. That the Applicant's application amounts to a re-argument of the case, and a review cannot be granted on the ground of dissatisfaction with the court's decision.
 - c. That the court was within its discretion in striking out the petition and the Preliminary objection, and was within its power to allow parties to make necessary applications in the Nyahururu High Court, which the court had/has original jurisdiction.
 - d. That notice of motion is frivolous, vexatious and an abuse of the court process and should be dismissed with costs in limine.
4. Whenever a party seeks to review a ruling or a judgment, they must submit their application under the ambit of Order 45 of the Civil Procedure Rules. Order 45 Rules 1 & 2 state as follows:
- (1) Any person considering himself aggrieved—
- (a) by a decree or order from which an appeal is allowed but from which no appeal has been preferred; or
 - (b) by a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time



when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the court which passed the decree or made the order without unreasonable delay.

- (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant or when, being respondent, he can present to the appellate court the case on which he applies for the review.
5. Flowing from Order 45 (1) (b), a party seeking a review of previously issued orders must demonstrate that an error is evident in the record or that new and significant evidence or matters have been discovered that, despite the exercise of due diligence, were not known or able to be presented at the time the decree was issued. In this application, the applicant has not shown that he falls within the scope of Order 45 of the Civil Procedure Rules, to warrant a review.
6. I find that the application lacks merit. It is, therefore, dismissed with costs.

DELIVERED AND SIGNED AT NYANDARUA THIS 24TH DAY OF JUNE 2025

KIARIE WAWERU KIARIE

JUDGE

