



REPUBLIC OF KENYA



**Republic v Mucheru (Revision Case E100 of 2023)
[2024] KEHC 1685 (KLR) (26 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1685 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE E100 OF 2023
HM NYAGA, J
FEBRUARY 26, 2024**

BETWEEN

REPUBLIC APPLICANT

AND

DAVID MUNGAI MUCHERU RESPONDENT

RULING

1. This file has been referred to the High Court by the trial magistrate, Hon. R. Kefa vide her letter dated 26th February, 2024.
2. In her letter, the magistrate explains that she issued an order that the exhibit produced in court namely sandal wood be released to the accused. She now acknowledges that the said order was erroneous.
3. There is a prohibition of the harvesting, transportation and sale of sandal wood vide Gazette Notice No. 3176 of 2007.
4. As such, the sandal wood produced in court was a proscribed forest produce and could not, under any circumstances be released to the accused, who was charged with an offence relating to the same.
5. Therefore, under the powers vested upon this court under Sections 362 and 364 of the *Criminal Procedure Code*, the orders of the trial court issued on 9th February, 2024 are hereby revised and substituted with an order that the 50 tonnes of sandal wood produced as an exhibit shall be forfeited to the state through the Kenya Forest Service, Nakuru/Laikipia Counties.
6. Further upon forfeiture, the Kenya Forest Service shall dispose of the said exhibit as provided by law and issue a certificate of such disposal to the trial court.
7. These orders are to be served on the ODP, the Kenya Forest Service and the National Police Service for compliance.



DATED, SIGNED AND DELIVERED AT NAKURU THIS 26TH DAY OF FEBRUARY, 2024.

.....

H. M. NYAGA

JUDGE

In the presence of;

C/A Dickson

N/A for state

