



**In re Harry Roy Veevers (Deceased) (Revision Case E003 of 2024)  
[2024] KEHC 6302 (KLR) (31 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6302 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
REVISION CASE E003 OF 2024  
A. ONG'INJO, J  
MAY 31, 2024**

**IN THE MATTER OF**

**RICHARD JOHN VEEVERS ..... 1<sup>ST</sup> APPLICANT  
PHILLIP DAVID VEEVERS ..... 2<sup>ND</sup> APPLICANT**

**RULING**

**Application**

1. By a letter dated February 7, 2024, the Applicants sought that the court calls for Mombasa Chief Magistrate's Court Inquest File No. 3 of 2015 in the Matter of Harry Roy Veevers to revise the ruling dated December 23, 2023 and delivered by Hon. Alex Ithuku (CM) on January 15, 2024 and declare that it is null and void and should be set aside in its entirety. That the Inquest be reopened and written and oral submissions be made and a proper ruling on the Inquest be delivered after analysing all the oral and documentary evidence and considering the written and oral submissions of all parties. The court is also urged to release the remains of Harry Roy Veevers, the deceased herein to Richard John Veevers for repatriation and interment in the UK.
2. The application is premised on grounds that those suspected of causing the unlawful death of the deceased, concealing the body and burying it without a postmortem under false name had applied to have the body released to them. That one of the witnesses in the Inquest who is a scientist in the UK who is holding specimens in respect to the inquest may dispose the specimens that the Applicants intend to have another inquest by the Coroner in the UK as soon as the body arrives there. That succession causes pending before the Family Division of this court were stayed some 10 years ago to await the determination herein and there is need to consider the application herein so that proceedings in the succession cause can be determined.

**Response**

3. The Advocate for the widow and daughters of the deceased filed grounds of opposition dated February 21, 2024 to the effect that the Trial Magistrate's ruling concluded that the cause of death was not



ascertained and that there was no concrete evidence adduced to show that there was someone criminally responsible for the death of the deceased. That the magistrate's final finding was sound in law and that the application is based on speculation and conjecture that the Trial Magistrate was forced to write the ruling. They argued that the current application is an afterthought and an unfair attack on the magistrate.

### **Analysis and Determination**

4. The power of the High Court in revising orders for subordinate court and tribunal is provided under Article 165 (6) and (7) of the [Constitution](#) as well as Section 362 and 364 of the [Criminal Procedure Code](#) where the High Court may call for records of the subordinate courts or other inferior tribunals and examine its legality, correctness, propriety or regularity. The purpose of revision jurisdiction of the High Court is to enable the High Court in manifest cases to correct manifest irregularities of illegalities and give appropriate directions on the manner in which the trial should be proceeded with in the subordinate court. (See [Joseph Mbuvi Nduvi v Republic](#) (2019) eKLR).
5. This court has considered the application for revision, the Grounds of Opposition by the advocate for the widow and daughter of the deceased, the legal provisions under which the application was brought, and records of the trial court. The issue for determination is whether the application is merited for the orders sought to be granted.
6. The Inquest herein was majorly heard by Hon. Ndegwa (SPM), save for the evidence of PW15 that was taken by Hon. Mutuku (CM) on February 27, 2023 with the consent of the advocates on record who agreed that upon taking of the said evidence, the file would be transmitted to Hon. Ndegwa to write a ruling. Upon taking the evidence of the last witness, an order was made for proceedings to be typed on priority basis. On June 29, 2023, a further mention was fixed for July 13, 2023 for directions on ruling and summons and mention notices were to be issued to the parties as they were absent. It is not indicated whether the matter was brought up on July 13, 2023 but on July 20, 2023, the advocates for the parties herein were not present and a further mention was fixed for August 1, 2023 and on the said date, it is indicated that the Trial Magistrate was away on official duties. On August 7, 2023, a mention date of September 12, 2023 was fixed to confirm filing of written submissions.
7. On September 12, 2023, Mr. Mokaya holding brief for Mr. Mogaka indicated that submissions were not ready and required 3 more days. Matter was fixed for September 15, 2023. On September 15, 2023, the advocate holding brief for Mr. Mogaka confirmed that submissions were ready and prayed for a ruling date. The court indicated that the file was to be forwarded to Hon. Ndegwa for writing of the ruling and mention date on November 1, 2023 given for Hon. Ndegwa to fix the matter for ruling. On November 1, 2023, the matter was placed before Hon. Odhiambo (SRM) who indicated that the Trial Magistrate was on transfer and fixed the matter for mention on November 15, 2023.
8. Hon. Ithuku (CM) took over the matter on November 15, 2023 and recorded that the orders given on 15.9.2023 were to be complied with. The orders that were given on September 15, 2023 were to the effect that the file was to be mention before Hon. Ndegwa on November 1, 2023 for fixing of a date for ruling. It however appears that by November 15, 2023, the orders had not been complied with. On December 11, 2023, Mr. Muthuri Advocate holding brief for Mr. Kinyua for the Applicants herein requested to be supplied with typed proceedings and sought for 2 weeks. Although it is not indicated why Mr. Muthuri wanted 2 weeks, leave was granted with a mention date on January 15, 2024. January 15, 2024 was supposed to be a mention date and not a date for ruling.



9. There is no evidence that typed proceedings were supplied to the Applicant's advocate and there is nothing to show that this file was forwarded to Hon. Ndegwa to consider the evidence of witnesses who testified and write a ruling.
10. It was therefore irregular for a ruling to be delivered without notice to the advocates particularly the advocate for the Applicants herein who had applied to be supplied with certified copies of the proceedings in order to file written submissions. This court therefore finds that the irregularity needs to be corrected by reopening of the inquest file, allow submissions to be filed and a ruling written and delivered based on the evidence tendered by witnesses in the inquest and submissions filed.
11. The file herein is referred back to the Chief Magistrate, Mombasa to allocate it to a Magistrate for the purpose of receiving submissions and writing determination.
12. Concerning whether an order should be issued for release of the body of the deceased, this court is not seized of the jurisdiction to issue such orders as the ruling in the Trial Magistrate's Court did not make any determination as to which party should inter the body and that application should be canvassed in the proper forum.
13. Mention on 06/06/2024 before the Chief Magistrate for directions.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS THIS  
31<sup>ST</sup> DAY OF MAY 2024**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**In the presence of: -**

Etropia- Court Assistant

Mr. Ngiri for the Republic

Mr. Kinyua Advocate for the Applicants/sons

Mr. Mogaka Advocate for the widow and daughters

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

