



**THE REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA**

*(Coram: I. Lenaola, SCJ)*

**APPLICATION NO. 22 OF 2016**

**THE ATTORNEY GENERAL .....APPLICANT**

**VERSUS**

**HALAL MEAT PRODUCTS LIMITED.....RESPONDENT**

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*(Being an application for review of the decision of the Deputy Registrar dated  
7<sup>th</sup> September, 2016)*

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Representation

Mr. Kamau for the Applicant  
*(The Attorney General)*

Mr. Wangila for the Respondent  
*(Abib & Associates Advocates)*

**RULING OF THE COURT**

**[1] UPON** perusing the Notice of Motion by the Attorney General, the applicant, dated 16<sup>th</sup> November, 2016 and filed on 18<sup>th</sup> November 2016 brought pursuant to **Rule 4 (A) (2) of the Supreme Court (Amendment) Rules, 2016**

*(repealed)* for review of the decision of the Deputy Registrar delivered on 7<sup>th</sup> September, 2016 declining to admit the applicant's record of appeal and should such review be granted, that the Court permit the applicant to file its record of appeal within a specified time; and

**[2] UPON** considering the grounds in support of the application and the supporting affidavit of Kepha Onyiso, State Counsel in the Office of the Attorney General wherein the applicant claims that the Deputy Registrar lacks the power to reject a record of appeal, as his powers are only limited to rejecting pleadings; that the applicant was entitled to file its appeal as of right to this Court under Article 163(4)(a) of the Constitution; that the Deputy Registrar erred in declining to allow the record of appeal by claiming that the applicant was not entitled to file its appeal as of right but should have instead sought certification before the Court of Appeal; and

**[3] UPON** also considering the applicant's submissions dated 14<sup>th</sup> November 2016 wherein the applicant reiterates that he was entitled to file his appeal from the Court of Appeal as of right since it involved interpretation and application of the provisions of Section 75 of the repealed Constitution on the right to property; that the Deputy Registrar's decision declining to admit the record of appeal amounted to a violation of Articles 48 and 50 of the Constitution of Kenya; that the Deputy Registrar lacks power and/or jurisdiction to interrogate whether the applicant's record of appeal offended the law on merits and; that the Deputy Registrar's decision was therefore ultra vires in the circumstances; and

**[4] FURTHER** considering the Respondent's replying affidavit sworn by Zainabu Mohammed on 30<sup>th</sup> November 2022, the Director of the Respondent herein and the respondent's written submissions dated 1<sup>st</sup> December 2022 contending that the intended appeal does not involve a matter of constitutional interpretation or application; that the applicant's application is unmeritorious as it seeks to undermine the principal of finality in legal proceedings and that the Deputy

Registrar was vested with power under Rule 4A(2) of the Supreme Court (Amendment) Rules 2016 to reject pleadings and therefore acted judicially.

[5] In the above context, I **NOW OPINE** as follows:

- i) Rule 4A (1)(b) of the Supreme Court (Amendment) Rules, 2016 (*repealed*), which is also provided for under Rule 6(1)(b) of the Supreme Court Rules, 2020 provides that:

***“The role of the Registrar shall be to–***

***(a) ...***

***(b) decline to admit pleadings that are not in accordance with the Constitution, the Act, the relevant rule or the Court’s practice Directions for filings”***

- ii) Rule 4A (2) of the Supreme Court (Amendment) Rules, 2016 (*repealed*) which is also found under Rule 6(2) of the Supreme Court Rules 2020 then reads:

***“Any party aggrieved by a decision of the Registrar made under this Rule may apply to a single Judge of the Court for a review of the decision.”***

- iii) I note, in that regard, that the Deputy Registrar had the opportunity to review and consider the record of appeal that the applicant intended to be admitted and proceeded to issue reasons that were explanatory as to why the intended appeal could not be admitted. Furthermore, the Deputy Registrar then proceeded to restate the applicable law in declining to admit the applicant’s record of appeal.
- iv) It is my view that, by restating the relevant rules and by giving reasons as to why the applicant’s pleadings were declined, the Deputy Registrar was

cogent and I reiterate that this was explanatory enough and he did not run afoul of any law. He also correctly exercised his jurisdiction and I see no reason to fault his decision. I therefore decline to grant the orders sought.

**[6] ACCORDINGLY, I make the following Orders:**

***a) The Notice of Motion dated 16<sup>th</sup> November 2016 is hereby dismissed.***

***b) There shall be no order as to costs.***

**[7] It is so ordered.**

**DATED and DELIVERED AT NAIROBI this 17<sup>th</sup> day of February, 2023**

.....  
**I. LENAOLA**  
**JUSTICE OF THE SUPREME COURT**

**I certify that this is a true copy of the original**

**REGISTRAR,  
SUPREME COURT OF KENYA**