



REPUBLIC OF KENYA



**Ndirangu v Isanda (Civil Appeal E007 of 2023)
[2023] KEHC 24967 (KLR) (31 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24967 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E007 OF 2023
MS SHARIFF, J
OCTOBER 31, 2023**

BETWEEN

NAOMI N NDIRANGU APPELLANT

AND

TEDKING ISANDA RESPONDENT

RULING

A. Introduction

1. The Appellant herein was sued by the Respondent herein Kisumu Small Claim Case No E207 of 2022 and judgment was delivered against her on 21st December, 2022 for a sum of Kshs.199,250 plus costs and interest from the date of filing suit until payment in full.
2. The Appellant was aggrieved by the said judgment and thus preferred the appeal herein on 17th January 2023. Subsequently the Appellant filed numerous applications seeking stay of execution of orders purportedly made by this court and she also craved leave to adduce additional evidence at this appellate stage. The Appellant's said applications were all struck out on infancy for being incurably and fatally defective save for her notice of motion dated 11th July, 2023 whose prayer No 5 survived and the same reads as follows:-
 - “5. That the Applicant be granted leave to file additional evidence, being email correspondences with Kenya Airways in support of her case as espoused in the supporting affidavit sworn by the Applicant on 20th March, 2023.”
3. On 18th July, 2023 parties were directed to file written submissions on the Appellant's prayer No 5. Both parties complied.
4. Before this court embarks on an analysis of the parties' submissions and the law, it has emerged that there is no supporting affidavit on court record sworn by the Appellant on 20th March, 2023. In the



absence of an affidavit in support of the Appellant's application that contains the additional evidence that the Appellant seeks to introduce, this application is rendered useless, incompetent, frivolous, vexatious and an abuse of court process; more so due to the history of the Appellant's previous applications that were struck out for being incurably and fatally defective. One would have thought that lessons would have been learnt from the outcome of the Appellant's previous applications.

5. On a balance the Appellant's application herein is akin to a skeleton with flesh and the same is dismissed.
6. The Appellant shall pay costs to the Respondent assessed at Kshs 7,000.

DELIVERED, SIGNED AND DATED AT KISUMU THIS 31ST DAY OF OCTOBER, 2023.

MWANAISHA S. SHARIFF

JUDGE

