

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CIVIL APPEAL NO. 155 OF 2018

(Being an appeal from the original judgment and decree of Hon. RM Ogal, Principal Magistrate, of 30th October 2018 in Hamisi PMCCC No. 23 of 2017)

JAMES VULIMU MBAJA.....APPELLANT

VERSUS

ANVI EMPORIUM LIMITED.....1ST RESPONDENT

JOANNES OGENDO OMUOM.....2ND RESPONDENT

RULING

1. Am unable to finalize preparation of the judgment that am supposed to write herein as the original court file in Hamisi PMCCC No. 23 of 2017 has not been availed.
2. I note that there is a record of appeal on record, but it is a mandatory requirement in civil appeals, from a magistrate's court, that the original trial records be availed for review by the appellate court. It would be dereliction of duty on my part if I were to proceed to determine the appeal herein without sight of the original trial record.
3. Consequently, I direct the Deputy Registrar to call for the original trial records.
4. The matter shall be mentioned thereafter for allocation of a fresh date for judgment.
5. The appeal arose from a trial at the Hamisi Principal Magistrate's Court. The Chief Justice recently gazetted the Vihiga High Court and placed the Hamisi magistrate's court under its supervision.
6. Consequently, I direct that this matter be transferred to the High Court registry at Vihiga, for compliance with the directions given in paragraphs 3 and 4 above.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 22ND DAY OF JANUARY 2021

W. MUSYOKA

JUDGE