



**Maganjo v Nyanjuoga & another (Civil Appeal E621 of 2022)
[2025] KEHC 1434 (KLR) (Civ) (13 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1434 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL
CIVIL APPEAL E621 OF 2022**

TW OUYA, J

FEBRUARY 13, 2025

BETWEEN

MOSES MUTHEE MAGANJO APPELLANT

AND

VICTOR ODUOR NYANJUOGA 1ST RESPONDENT

JOSELINE NYIKULI OGUTU 2ND RESPONDENT

*(Being an appeal from the Judgement of Hon. V.M. MOCHACHE (RM)
delivered on 8th August, 2022 in Nairobi SCCC NO. E690 of 2022)*

RULING

1. This appeal filed pursuant to the Judgement of Hon. V.M. Mochache (RM) delivered on 8th August, 2022 in Nairobi SCCC NO. E690 of 2022). The appeal was filed vide memorandum of appeal dated 8th August 2022 on the grounds listed here below:
 - i. That the learned Adjudicator erred in law in finding that the 2nd Respondent was not vicariously liable for the acts of the driver of her motor vehicle.
 - ii. That the learned Adjudicator erred in law in finding that the motor Vehicle KBT 351B was in possession of a third party who did not have authority from the 2nd Respondent to drive the vehicle.
 - iii. That the learned Adjudicator erred in law in failing to find there was a presumption in law that the driver of a motor vehicle was driving the same under the authority of the registered and beneficial owner.



- iv. That the learned Adjudicator erred in law in finding that the claimant had not proved that the motor vehicle was being driven with the authority and for the benefit of the 2nd Respondent.
 - v. That the learned Adjudicator erred in law in dismissing the claimant's case against the 2nd Respondent herein.
2. The Appellant prays for Orders that: -
- i. The Judgement of the Honourable Court dated 8th July, 2022 be reviewed or vacated and/or set aside.
 - ii. The Honourable Court be pleased to find the 2nd Respondent liable for the accident in question and award damages as sought in the primary suit
3. The matter was brought to this court under the Rapid Results Initiative and was first mentioned on 3rd July 2024 when there was no attendance by the parties. The matter was subsequently mentioned on diverse dates when Ms. Gathere came on record for the Respondent while there has been consistently no appearance for the appellant.
4. On 16th October 2024, Ms. Gathere informed the court that the Appellant had served them with the record of appeal. Based on this information the court directed that that the parties to file submissions within 30days. The registry was directed to download the alleged record of appeal which was believed to be in the system.
5. On subsequent mention dates, the appellant remained absent while Mr. Kanyeki on 28th November 2024 informed the court that Ms. Gathere had filed submissions in the system on the basis of which the matter was set down for judgement on 13th February 2025. It was upon this moment that it became apparent that other than the missing record of appeal, neither party had filed any submissions in this matter hence no determination/judgement could be delivered.
6. It can be deduced from the appellant's conduct that they have no interest at all in this matter. Likewise, the respondent seems not keen on defending the same. This is a matter that should not be retained in the court system and should be struck out to reduce unnecessary backlog.

Order

7. It is hereby ordered that:

Notice to Show Cause to issue, both parties notified and Matter terminated accordingly. Matter to be mentioned before the Deputy Registrar for that purpose on 13th March 2025.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 13thDAY OF FEBRUARY 2025

HON. T. W. OUYA

JUDGE

For Appellant.....No appearance

For Respondent.....No Appearance

Court Assistant...Martin Korir

