



**Mbuli v Mung'eru (Civil Appeal E081 of 2024)  
[2025] KEHC 2514 (KLR) (4 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2514 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CIVIL APPEAL E081 OF 2024  
JK NG'ARNG'AR, J  
FEBRUARY 4, 2025**

**BETWEEN**

**OMAR MBULI ..... APPELLANT**

**AND**

**AMOS NZUKI MUNG'ERU ..... RESPONDENT**

**RULING**

1. The Respondent filed a Notice of Motion application and supporting statement both dated 3<sup>rd</sup> July 2024 seeking dismissal of the appeal and that the appellant be compelled to immediately comply with orders of the trial court as the appeal was a delay of justice.
2. The Appellant filed Grounds of Opposition dated 18<sup>th</sup> October 2024 that the Notice of Motion application dated 3<sup>rd</sup> July 2024 is poorly drawn, it is incurably defective in nature and the only remedy the court can have is to strike it out, that the application has not been brought under any orders of the civil procedure, and that it is in the interest of justice that the application is struck out with costs.
3. The Appellant filed submissions dated 4<sup>th</sup> November 2024 reiterating contents of the application and the Grounds of Opposition.
4. I have perused the application, the Grounds of Opposition and submissions by the Appellant. The issue for determination is whether the application is merited.
5. The court in *Peter Kariuki Manthi v Attorney General & Another* (2018) eKLR cited with approval the case of *SMEC Australia Pty Ltd v McConnell Dowell Constructors (Aust) Pty Ltd* {2011} VSC 492 at [3]-[6] where the principles of good pleading are set out as follows: -

“While elegance in a pleading is not a precondition to its legitimacy, it is an aspiration which, if achieved, can only but advance the interests of justice. A poorly drawn pleading, on the other hand, which does not tell a coherent story in a well ordered structure, will fail to achieve



the central purpose of the exercise, namely communication of the essence of case which is sought to be advanced.

Pleading should not be dismissed as a lost art. It has an important part to play in civil litigation conducted within the adversarial system. Crafting a good pleading calls for precision in drafting, diligence in the identification of the material facts marshalled in support of each allegation, an understanding of the legal principles which are necessary to formulate complete causes of action and the judgment and courage to shed what is unnecessary.

Although a primary function of a pleading is to tell the defending party what claim it has to meet, an equally important function is to inform the court or tribunal of fact precisely what issues are before it for determination.”

6. I find that the application herein has been poorly drafted. The Applicant has also not stated provisions of the law upon which the application is premised. The manner of drafting prayers being sought before this court makes it difficult for them to be meaningfully considered.
7. In the upshot, the application is devoid of merit and is dismissed. Costs shall be in the cause.

**DELIVERED VIRTUALLY VIA CTS AT MOMBASA THIS 4<sup>TH</sup> DAY OF FEBRUARY, 2025**

**J.K. NG'ARNG'AR, HSC**

**JUDGE**

In the presence of: -

..... Advocate for the Appellant

..... Advocate for the Respondent

Court Assistant – Shitemi

