



**Hajj Motors Limited v Treadsetters Tyres Limited (Civil Appeal E061 of 2024) [2025] KEHC 4357 (KLR) (Civ) (3 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4357 (KLR)

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

**CIVIL**

**CIVIL APPEAL E061 OF 2024**

**AC MRIMA, J**

**APRIL 3, 2025**

**BETWEEN**

**HAJJ MOTORS LIMITED ..... APPLICANT**

**AND**

**TREADSETTERS TYRES LIMITED ..... RESPONDENT**

**RULING**

1. By a Notice of Motion dated 13<sup>th</sup> February 2025, the Applicant herein, Hajj Motors Limited, sought the following orders: -
  1. That this Application be certified as urgent and service dispensed with in the first instance.
  2. That pending the hearing and determination of this Application inter-partes, this Honourable Court be pleased to issue orders reinstating this appeal on the grounds herein.
  3. That pending the hearing and determination of the appeal lodged against the judgment of the small claims court, this Honourable Court be pleased to re-issue orders staying the execution of the judgment delivered by the Honourable Court dated 14<sup>th</sup> December 2023 by way of proclamation, attachment, removal, and sale or howsoever, as attempted under the warrants of attachment obtained by the respondent in the lower court in December 2024.
  4. That this Honourable Court be pleased to quash the warrants of attachment dated December 2024 obtained by the respondent in the lower court.
  5. That the Honourable Court be pleased to grant any other relief that it deems fit.



2. Given the history of the matter, the Respondent did not oppose the application and instead parties agreed that this Court decides on the application upon perusing the record. This Court has indeed gone through the record and carefully considered the application.
3. To date, neither the lower Court file nor the typed and certified proceedings are yet to be availed before this Court. There have also been no directions on prosecuting the appeal without the filing of the Record of Appeal and/or the proceedings and decree. With such a scenario, the Appellant could only prosecute the appeal after being provided with the proceedings more so since it had already deposited the security of Kshs. 300,000/= in Court.
4. It is apparent, therefore, that the order dismissing the appeal for want of prosecution was premature. The Court bore the duty of ensuring that the certified copies of proceedings were available for collection by the parties prior to directing the determination of the appeal within a fixed period of time.
5. Having said as much, the following final orders hereby issue: -
  - a. The Order made on 9<sup>th</sup> October 2024 directing that the appeal herein be prosecuted within 60 days and in default the appeal stand dismissed is hereby set aside and/or vacated.
  - b. The appeal is, henceforth, reinstated for hearing and determination. Equally, the order on stay of execution of the judgment and decree in the Small Claims Court at Nairobi No. SCCC No. E6721 of 2023 is hereby reinstated.
  - c. Pending the determination of this appeal, any form of execution of the judgment and decree in the Small Claims Court at Nairobi No. SCCC No. E6721 of 2023 taken out is hereby quashed forthwith.
  - d. The Hon. Deputy Registrar shall avail the Lower Court file for further directions on the hearing of the appeal on a date to issue.
  - e. Costs in cause.

Orders accordingly.

**DELIVERED , DATED AND SIGNED AT NAIROBI THIS 3<sup>RD</sup> DAY OF APRIL, 2025.**

**A. C. MRIMA**

**JUDGE**

Ruling No.1 virtually delivered in the presence of:

Mr. Ombeto, Learned Counsel for the Appellant.

Mr. Kareithi , Learned Counsel for the Respondent.

Michael/Amina – Court Assistants.

