



**Lake Victoria North Water Services Board v Olayo & another
(Suing as Admin of the Estate of Joyce Opondo, DCD) (Civil Appeal
E016 of 2023) [2025] KEHC 6587 (KLR) (20 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6587 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CIVIL APPEAL E016 OF 2023
WM MUSYOKA, J
MAY 20, 2025**

BETWEEN

LAKE VICTORIA NORTH WATER SERVICES BOARD APPELLANT

AND

GEORGE OPONDO OLAYO 1ST RESPONDENT

ERNEST OTSIENO ODOUR 2ND RESPONDENT

SUING AS ADMIN OF THE ESTATE OF JOYCE OPONDO, DCD

(An appeal arising from the judgement of Hon. TA Madowo, Senior Resident Magistrate, SRM, delivered on 30th September 2022, in Busia CMCCC No. 196 of 2020)

RULING

1. I delivered a judgement in this appeal on March 26, 2025, where I allowed the appeal. The appeal turned on two issues, the awards made with respect to loss of dependency and special damage. The appeal was successful, only on loss of dependency, for the appellant had dropped its case on the award of special damages.
2. After the delivery of the judgement, the respondents wrote a letter to court, dated April 10, 2025, addressed to the Deputy Registrar, seeking clarification on the awards of the trial court that were set aside, and the ones left intact. After that letter, the respondents also lodged a notice of appeal at the registry, dated April 13, 2025, and received by the Deputy Registrar on April 28, 2025.
3. Oblivious of the fact that the respondents had filed a notice of appeal, after the letter of April 10, 2025 was brought to my attention, I directed that the file be placed before me for mention. That was done, on May 12, 2025, and the Advocates for both sides addressed me, on the letter of April 10, 2025.



4. I will not go into the issues raised in those addresses, given that the decision is being appealed. As the respondents evince an intention to appeal, let them move to the Court of Appeal, if they are not satisfied with the judgement, for that would be the proper thing to do. The High Court is now functus officio on the matter. It is not proper for a party to engage the Court of Appeal and the High Court, at the same time, on a judgement delivered by the High Court. A party should not have it both ways.
5. The practice of writing letters to court, to ask the court to explain a judgement or ruling, should be decried. Upon delivering a judgement, a court becomes functus officio, and no explanation, by that court, should be required, of the content of the judgement or the decision thereof. The dissatisfied or aggrieved party moves on to the appellate court, to obtain a second opinion of an expanded bench, or files a formal application for review before the trial court.
6. Litigation ought not be conducted through correspondence. Rather it should be by filing pleadings, which are then served on the other side, and the matters are subjected to adjudication thereafter, by the court vested with the appropriate jurisdiction, after hearing both sides.
7. I trust that the parties shall be guided appropriately.

DELIVERED VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, THIS 20TH DAY OF MAY 2025.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

Advocates

Mr. Mata, instructed by LG Menezes & Company, Advocates for the appellant.

Ms. Achala, instructed by Abalo & Company, Advocates for the respondents.

