



**Abubakar & another (Suing as the parents and next friend of Abubakar Burur Mohamed) v Munge; Yusuf (Appellant); Munge (Respondent) (Civil Appeal E785 of 2022) [2024] KEHC 7866 (KLR) (Civ) (1 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 7866 (KLR)

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

**CIVIL**

**CIVIL APPEAL E785 OF 2022**

**WM MUSYOKA, J**

**JULY 1, 2024**

**BETWEEN**

**SAIDA ABUBAKAR ..... 1<sup>ST</sup> APPELLANT**

**MOHAMED YUSUF ..... 2<sup>ND</sup> APPELLANT**

**SUING AS THE PARENTS AND NEXT FRIEND OF ABUBAKAR BURUR  
MOHAMED**

**AND**

**ANTHONY KARUME MUNGE ..... RESPONDENT**

**AND**

**KADIJA MOHAMMED YUSUF ..... APPELLANT**

**AND**

**ANTHONY KARUME MUNGE ..... RESPONDENT**

*(An appeal arising from the judgment of Hon. SA Opande, Principal Magistrate, PM, delivered on 8th September 2022, in Milimani CMCCC No. 7315 of 2019)*

**RULING**

1. The proceedings that were conducted by the trial court were a little convoluted, and it would appear that that has spilled over to the appeal. I say so because looking at the heading or title of the appeal, in the memorandum of appeal dated 4<sup>th</sup> October 2022. It would appear that there are really 2 appeals in 1, one in respect of Milimani CMCCC No. 7315 of 2019 and the other in respect of Milimani CMCCC No. 8354 of 2019.



2. Although there were 2 causes at the trial court, that were allegedly consolidated, the record of appeal filed herein, dated 22<sup>nd</sup> August 2023, relates largely to only 1 of those causes, Milimani CMCCC No. 7315 of 2019, although copies of pleadings in Milimani CMCCC No. 8354 of 2019 are in the record. I see typed proceedings in Milimani CMCCC No. 7315 of 2019 in the record of appeal, I have not seen those in Milimani CMCCC No. 8354 of 2019, and I have not come across any order for the consolidation of the 2. Of the 2 original trial records, only the file in Milimani CMCCC No. 7315 of 2019 has been placed in this appeal file, that in Milimani CMCCC No. 8354 of 2019 has not been availed.
3. In view of the above, the appeal record is not complete, and I am reluctant to go ahead and write a judgment. I shall return the appeal file to the registry at Milimani law courts, for the Deputy Registrar to cause the record to be completed, after which the file may be returned to me for judgment-writing.

**DELIVERED BY EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, THIS 1<sup>ST</sup> DAY OF JULY 2024**

**W MUSYOKA**

**JUDGE**

Ms. Veronica, Court Assistant, Milimani, Nairobi.

Mr. Arthur Etyang, Court Assistant, Busia.

Advocates

Mr. Ntogati, instructed by Lilian Amere Machio & Company, Advocates for the appellants.

Mr. Chasia, instructed by Ochieng Opiyo & Company, Advocates for the respondents.

