



East African Paints & Mining v Grace Villas Resorts & another (Civil Appeal E802 of 2023) [2024] KEHC 10547 (KLR) (Civ) (3 September 2024) (Ruling)

Neutral citation: [2024] KEHC 10547 (KLR)

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

CIVIL

CIVIL APPEAL E802 OF 2023

WM MUSYOKA, J

SEPTEMBER 3, 2024

BETWEEN

EAST AFRICAN PAINTS & MINING APPELLANT

AND

GRACE VILLAS RESORTS 1ST RESPONDENT

LAIBON VILLA GUEST HOUSE 2ND RESPONDENT

(An appeal arising from orders made in the ruling of Hon. WK Micheni, Chief Magistrate, CM, delivered on 19th July 2023, in Nairobi CMCCC No. E205 of 2020)

RULING

1. I find myself unable to write judgment in this matter, as the original trial court records have not been availed. I only have the record of appeal, and I cannot vouch for its contents. The ruling, which is the subject of this appeal, dated 19th July 2023, which appears at page 159 of the record of appeal, is not certified. I also do not see a certification of the typed proceedings, although there does appear a signature at page 8 of those proceedings and page 146 of the record of appeal, against the date of 1st September 2023. The record of appeal also carries other materials, which are usually not subject to certification, but I have no means of telling whether they were obtained from the original trial record.
2. The rules relating to appeals to the High Court, from the trial courts, require that the handwritten record of the trial court, together with the transcript, duly certified, be availed for appeal purposes. I do not think that there has been compliance. The appeal is, therefore, not ready for determination.
3. Consequently, I do hereby direct that the file herein be placed before the Presiding Judge, Civil Division, High Court of Kenya, Milimani Law Courts, Nairobi, for mention, with a view to getting compliance. It is so ordered.



DELIVERED BY EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, THIS 3RD DAY OF SEPTEMBER 2024.

W MUSYOKA

JUDGE

Ms. Veronica, Court Assistant, Milimani.

Mr. Arthur Etyang, Court Assistant, Busia.

Ms. Eva Adhiambo, Legal Researcher, Busia.

Advocates

Mr. Sewe, instructed by Okwach & Company, Advocates for the appellant.

Mr. Wahome, instructed by L. Wahome & Company, Advocates for the respondents.

