



REPUBLIC OF KENYA



KENYA LAW
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**Amos v Juma (Commercial Appeal E136 of 2022)
[2023] KEHC 20252 (KLR) (Commercial and Tax) (7 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20252 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL APPEAL E136 OF 2022**

DAS MAJANJA, J

JULY 7, 2023

BETWEEN

NDERI KAHERI AMOS APPELLANT

AND

JOSEPH ODHIAMBO JUMA RESPONDENT

(Being an appeal from the Judgment and Decree of Hon. D. S. Aswani, SRM dated 19th July 2022 at the Nairobi Magistrates Court, Milimani in SCCC No. E894 of 2022)

RULING

1. This is the first appeal against the judgment of the Small Claims Court delivered on July 19, 2022 finding the Appellant fully liable for causing an accident involving the respondent's motor vehicle and awarding him Kshs. 513,881.99 comprising repair costs and assessment fees together with interest and costs.
2. A party aggrieved by a decision or an order of the Small Claims court has a right of appeal to the High Court on matters of law under section 30 of the *Small Claims Court Act*, 2016. The procedure aspects of the appeal are governed by the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which at section 79G provides that the time for filing an appeal from the judgment of the Subordinate Court to the High Court is 30 days.
3. In this case, the judgment challenged was rendered on July 19, 2022 hence the appeal ought to have been filed on August 20, 2022 latest. This appeal was filed on September 30, 2023 outside the time provided and without leave of the court. I have read and re-read the record of appeal for that time excludes the, "period any time which the lower court may certify as having been requisite for the preparation and delivery to the appellant of a copy of the decree or order."



4. The appeal is therefore incompetent. The court lacks jurisdiction to consider it. It is struck out with costs to the Respondent assessed at Kshs. 25,000.00.

SIGNED AT NAIROBI

D. S. MAJANJA

JUDGE

DATED AND DELIVERED AT NAIROBI THIS 7TH DAY OF JULY 2023.

F. MUGAMBI

JUDGE

Court Assistant: Mr M. Onyango.

Mr Kibaara instructed by Kimondi, Gachoka and Company Advocates for the Appellant.

Mr Juma instructed by J. O. Juma and Company Advocates for the Respondent.

