

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

Civil Appeal 336 of 2005

JANET NYOKABI MUNENGE APPELLANT

VERSUS

THE CHAIRMAN

NAIROBI LIQUOR LICENSING COURT RESPONDENT

RULING

At the commencement of the hearing of an application filed by the Appellant herein under Sections 18 and 39 of the Liquor Licensing Act, Cap 121, the Respondent's Counsel, representing the Attorney General, raised a Preliminary Objection to the application on the ground that this Court had no jurisdiction to hear the appeal from a decision of the Liquor Licensing Court (hereinafter LLC). Ms Gathagu, for the Attorney General, argued that the LLC was not a "subordinate court" within the meaning of Section 65 (1) of the Civil Procedure Act, from whose decision an appeal could lie to the High Court. LLC, she argued, was an "administrative tribunal" only, and in any event, its decisions were not of civil nature as envisaged by Section 5 of the Civil Procedure Act. She did not provide any authorities to support her argument.

This argument is completely misplaced, and has no legal basis. There are several ways in which appeals arise to this Court, from decisions made by the Subordinate courts under Section 65 of the Civil Procedure Act, or from decisions of tribunals as provided by the Statute governing those tribunals – such as the Land Disputes Tribunals Act, Cooperative Tribunals Act, etc.

In the case before this Court, the appeal arises under Sections 18 and 39 (5) of the Liquor Licensing Act, Cap 121 which states as follows:

“39 (5): Any person aggrieved by the decision of the licensing court upon any such report may within twenty-one days appeal against the decision to the High Court, and the judgment of the High Court on such appeal shall be final.”

And Section 18 states as follows:

“18 (1) An applicant whose application to renew or transfer a licence has been refused may within twenty-one days of such refusal appeal against such refusal to the High Court.

(2) The High Court on an appeal under this section may confirm the refusal or may grant the renewal or transfer in the same way as the licensing court could have granted it, and the judgment of the High Court on such appeal shall be final”.

The appeal before this court, having been filed on 19th May, 2005, within the time limit prescribed in the above sections, is properly and competently before this Court.

Accordingly, the Preliminary Objection is dismissed with costs to the Appellant.

Dated and delivered at Nairobi this 6th July, 2005.

ALNASHIR VISRAM

JUDGE