

incompetent. The claim would still be viable and competent, and can be determined by other civil courts, like the Magistrate's Court and the High Court, for those other courts would still have jurisdiction, over civil claims of the nature of the claim that was before the Small Claims Court.

5. The claim cannot, however, be handled by the Magistrate's Court or the High Court, as a claim in the Small Claims Court. It has to be transferred out of the Small Claims Court, to the Magistrate's Court or the High Court, for those courts to assume jurisdiction over, and dispose of it. I have jurisdiction, under Article 165(5) of the Constitution, to supervise what happens at both the Small Claims Court and the Magistrate's Court. I can give directions, with respect to matters filed in those courts, inclusive of ordering transfer of the matters from one court to the next.
6. Consequently, I do hereby order transfer of the claim at the Small Claims Court, to the Chief Magistrate's Court, at the Milimani Commercial Court, for hearing and final disposal. I do so in exercise of the power that section 18 of the Civil Procedure Act, Cap 21, Laws of Kenya, vests in me as a Judge of the High Court. This appeal is disposed of in those terms. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT
BUSIA, ON THIS 27TH DAY OF OCTOBER 2025.**

**WM MUSYOKA
JUDGE**

Mr. Arthur Etyang, Court Assistant, Busia.

Mr. Michael Onyango, Court Assistant, Milimani, Nairobi.

Advocates

Ms. Kahiti, instructed by COOTOW & Associates, Advocates for the appellant.

Mr. Nabende, instructed by Blayer & Company, Advocates for the respondent.