



REPUBLIC OF KENYA



East Africa Institute of Certified Studies v Mayfair Holdings Limited (Civil Appeal E201 of 2024) [2025] KEHC 14951 (KLR) (24 October 2025) (Ruling)

Neutral citation: [2025] KEHC 14951 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E201 OF 2024
A MABEYA, J
OCTOBER 24, 2025**

BETWEEN

EAST AFRICA INSTITUTE OF CERTIFIED STUDIES APPELLANT

AND

MAYFAIR HOLDINGS LIMITED RESPONDENT

(Being an appeal from the ruling and order of Hon. E. A. Obina CM delivered on the 3/10/2024 in Kisumu Chief Magistrate's Court Case No. E442 of 2021)

RULING

1. Section 27 of the *Civil Procedure Act* provides as follows: -

“Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incidental to all suits shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid; and the fact that the court or judge has no jurisdiction to try the suit shall be no bar to the exercise of those powers: Provided that the costs of any action, cause or other matter or issue shall follow the event unless the court or judge shall for good reason otherwise order.” (emphasis added).

2. From the foregoing, it is clear that the general rule is that costs in a litigation follow the event. It is therefore expected that once a party succeeds in a case, he/she is entitled to the costs unless the Court orders otherwise.

3. Conversely, there is also a general rule that where a party applies for several reliefs and the Court does not grant all or is silent on any of such reliefs, that relief is deemed to have been rejected.



4. Vide an appeal dated 9/10/2024, the appellant prayed for: -

- “(a) That the respondent do pay to the appellant a sum of Kshs.990,930/- being refund of rent deposit paid by the appellant to the respondent.
- (b) That the respondent do pay to the appellant the sum of Kshs.520,000/- being the sum paid by the appellant to M/s. Victoria Blue Auctioneers as a result of execution of the Decree in Kisumu CMCC No. E442 of 2021.
- (c) That the respondent do pay interest on (a) and (b) above from 15th May, 2024 at Court rates till payment in full.
- (d) That the respondent do pay the costs of this appeal.”

5. After considering the appeal, this Court delivered a judgment on 20/6/2025 as follows: -

- “17. As regards the other claims, with the setting aside of the entire judgment of the trial court, any and all monies paid by the appellant pursuant to that decree were recoverable. Further, the Court having ordered that each party do bear their own costs, the monies paid to the auctioneers by the appellant pursuant to that decree were recoverable.
- 18. Accordingly, I find that the appeal has merit and I allow the same. The ruling of 4/10/2024 is hereby set aside and replaced with an order allowing the application as prayed.”

6. A question has arisen whether or not the appellant is entitled to the costs of the appeal. The appellant contends that it is entitled while the respondent contends otherwise. The appellant filed written submissions while the respondent submitted orally. I have considered the same.

7. From the record, it is clear that the appellant was successful in its appeal. The appeal consisted of four prayers. All of them were very specific. What the Court held was that the Appeal was meritorious and was allowed. There was no mention of any specific prayer out of the four.

8. From the foregoing, it goes without saying that it is the entire appeal that was allowed including the prayer for costs. If the Court was minded not to grant the costs to the successful party, nothing would have been easier than to state so in its judgment of 20/6/2025.

9. Further, had the Court not intended to award the costs, it would have directed that the appeal had succeeded in terms of prayer Nos. (a), (b) and (c) then leave (d) out. Since it held that the appeal was meritorious and allowed, it is deemed to have allowed all the reliefs sought therein.

10. Accordingly, since there was no reason why the successful appellant should not be awarded the costs of the appeal, the costs of the appeal were awarded to it accordingly.

It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 24TH DAY OF OCTOBER, 2025.

A. MABEYA, FCI Arb

JUDGE

