



Ishano Distributors Limited v Barizi Donholm Grill Limited (Civil Appeal E1183 of 2025) [2025] KEHC 15628 (KLR) (Civ) (30 October 2025) (Ruling)

Neutral citation: [2025] KEHC 15628 (KLR)

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

CIVIL

CIVIL APPEAL E1183 OF 2025

LP KASSAN, J

OCTOBER 30, 2025

BETWEEN

ISHANO DISTRIBUTORS LIMITED PLAINTIFF

AND

BARIZI DONHOLM GRILL LIMITED RESPONDENT

RULING

1. This is an application for stay pending appeal which was filed within time. I have read the submissions and note that the only issue for me to decide is whether failure to serve notice of appeal is fatal. The Appellant has already deposited the decretal amount and needless to say, the right of any appeal is constitutional.
2. Order 42 rule 6(4) refers to the Court of Appeal and not the High Court and so it is irrelevant here. There is no other provision that requires notice of Appeal and so it is my finding that the Memo of Appeal is sufficient. The Courts have recently held (including in my previous decision) that an appeal from a small claims Court may lie at the High Court if facts are bedecked with law and so the reason that facts are mentioned in the memo of Appeal is irrelevant and besides even if the facts alluded to are not clothed with law, the Law itself is mentioned in Memo of Appeal. The fact that the decretal amount has been deposited solves the issue of irreparable damage as the money is safe both for the expected loser and expected winner.
3. The upshot of the above is that the application dated the 22nd day of October 2025 is allowed. Each party to bear own costs.

DATED DELIVERED VIRTUALLY AND SIGNED THIS 30TH DAY OF OCTOBER 2025

HON L P KASSAN



JUDGE

