



**Moonlight Coach Company Ltd v Irungu (Civil Appeal E774 of 2023)  
[2025] KEHC 15224 (KLR) (Civ) (23 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15224 (KLR)

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

**CIVIL**

**CIVIL APPEAL E774 OF 2023**

**WM MUSYOKA, J**

**OCTOBER 23, 2025**

**BETWEEN**

**MOONLIGHT COACH COMPANY LTD ..... APPELLANT**

**AND**

**ANGELA IRUNGU ..... RESPONDENT**

*(Appeal from judgement and decree by Hon. Judith Omollo  
(Mrs), in Milimani SCCC No. E108 of 2023, of 2nd August 2023)*

**JUDGMENT**

1. This is an appeal from the Small Claims Court. The claim was filed on 13<sup>th</sup> January 2023, and Judgment was delivered on 2<sup>nd</sup> August 2023. The Small Claims Court exercises jurisdiction over matters filed before it in terms of section 34(1) of the *Small Claims Court Act*, Cap 10A, Laws of Kenya, which requires the court to hear and determine the claim within 60 days of its filing.
2. The claim herein was filed on 13<sup>th</sup> January 2023. 60 days expired on 13<sup>th</sup> March 2023. Upon expiry of the 60 days, on 13<sup>th</sup> March 2023, the court ceased to have jurisdiction over the matter, by dint of section 34(1) of the *Small Claims Court Act*. Going by the above, the judgement, delivered on 2<sup>nd</sup> August 2023, was way outside the 60 days limitation period, and the said judgement was null and void, for want of jurisdiction.
3. However, the said suit would still be viable and valid, for it was filed within the appropriate limitation timelines. Other courts, such as the Magistrates Court and the High Court, would still have jurisdiction to deal with it. The trial court ought not have pushed on with determining the matter after 13<sup>th</sup> March 2023. It should have downed its tools, and forwarded the file to the High Court for directions.



4. Upon the file being placed before the High Court, there would be jurisdiction, under Article 165(5) of *the Constitution*, for the High Court to exercise supervisory discretion, by directing the transfer of the matter to another court with jurisdiction. The most appropriate court would be the Magistrate's Court, in view of the pecuniary jurisdiction.
5. I, accordingly, declare that the judgement, of 2<sup>nd</sup> August 2023, was a nullity, and I hereby order transfer of the suit, herein, in Nairobi SCCC No. E108 of 2023, under section 18 of the *Civil Procedure Act*, Cap, 21, Laws of Kenya, to the Chief Magistrate's Court, at the Milimani Commercial Courts, for hearing and final disposal. There shall be no order on costs. This appeal is disposed of in those terms. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, THIS 23<sup>RD</sup> DAY OF OCTOBER 2025.**

**W MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant, Busia.

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

Ms. Eva Adhiambo, Legal Researcher.

Advocates

Mr. Siagi, instructed by Moses N. Siagi & Company, Advocates for the appellant.

Ms. Mukami, instructed by Samuel Gitonga & Associates, for the respondent.

