



REPUBLIC OF KENYA



KENYA LAW
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**Muli v Thuo & 2 others (Civil Appeal E648 of 2022)
[2025] KEHC 15230 (KLR) (Civ) (23 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15230 (KLR)

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

CIVIL

CIVIL APPEAL E648 OF 2022

WM MUSYOKA, J

OCTOBER 23, 2025

BETWEEN

IMMANUEL TUVA MULI APPELLANT

AND

DOMINIC MWANGI THUO 1ST RESPONDENT

KIM LOGISTICS LIMITED 2ND RESPONDENT

AUSTINE MUAVA VUNZA 3RD RESPONDENT

*(Appeal from the ruling and order by Hon. JP Omolo (RM) in Milimani
Small Claims Court Civil Case No. 11 of 2020, of 26th July 2022 by)*

JUDGMENT

1. The matter at the trial court emanated from the Magistrate's Court, where it was filed on an unknown date. The plaint is dated 20th July 2020. It was transferred to the Small Claims Court on an unknown date. What is clear is that it was placed before an Adjudicator on 28th April 2021. It could be taken that was the effective date when it was filed at the Small Claims Court, that is where the Small Claims Case became seized of it.
2. Under the law which established the Small Claims Court, the *Small Claims Court Act*, Cap 10A, Laws of Kenya, that court ought to hear and determine the claim filed before it within 60 days of its filing. That is provided for in section 34(1) of the *Small Claims Court Act*. That provision is in mandatory terms.



3. The Small Claims Court was first seized of the matter on 28th April 2021, when the matter was placed before the adjudicator for the first time. 60 days, from 28th April 2021, lapsed on 28th June 2021. The suit should have been heard and formally disposed by that date, that is to say 28th June 2021.
4. The claim was dismissed on 17th June 2021, for non-attendance. An application was filed on 18th May 2022, seeking to set aside the orders made on 17th June 2021. A ruling was delivered, on 28th July 2022, on the application for setting aside of the dismissal order. This appeal arises from that ruling of 28th July 2022.
5. I have been unable to trace a copy of the ruling of 28th July 2022, from the record of appeal filed herein, and I cannot, therefore, tell the nature or purport of the order that was made in that ruling of 28th July 2022. However, from the grounds of appeal, in the memorandum of appeal, dated 1st August 2022, it would appear that the said application was dismissed.
6. Anyhow, if the 60 days lapsed on 28th June 2021, that marked the date when the jurisdiction of the Small Claims Court, to handle the matter, was lost. The orders of 17th June 2021, dismissing the suit, for lack of attendance, was, therefore, made within jurisdiction. Anything else done after 28th June 2021 was done outside of jurisdiction. The filing, of the application of 18th May 2022, was done before a court without jurisdiction, and the ruling of 28th July 2022, whatever its outcome, was delivered by a court bereft of jurisdiction to handle the matter.
7. As the Small Claims Court did not have jurisdiction to handle the application of 18th May 2022, it had no basis to deliver its ruling of 28th July 2022. It should have downed its tools after 28th June 2021. I see, from the grounds of appeal, in the memorandum of appeal, dated 1st August 2022, that the application of 18th May 2022, was dismissed. That ruling was null and void. By extension, this appeal is also null, for it challenges a null decision. Consequently, I hereby dismiss it. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 23RD DAY OF OCTOBER 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

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

Ms. Eva Adhiambo, Legal Researcher.

Advocates

Ms. Sagwa, instructed by Shem Kebongo & Company, Advocates for the appellant.

Mr. Njuguna, instructed by Kimondo Gachoka & Company, Advocates for the respondent.

