



**Mang'oli t/a Moda Enterprises v Kasili (Civil Appeal E1019 of 2024)
[2025] KEHC 15780 (KLR) (Civ) (3 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 15780 (KLR)

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

CIVIL

CIVIL APPEAL E1019 OF 2024

WM MUSYOKA, J

NOVEMBER 3, 2025

BETWEEN

ALFRED MANG'OLI T/A MODA ENTERPRISES APPELLANT

AND

GEOFFREY KASILI RESPONDENT

*(Appeal from the judgement and decree, of Hon. AG Njuguna, Adjudicator/
Resident Magistrate, of 16th August 2024, in Milimani SCCC No. E9657 of 2023)*

JUDGMENT

1. The claim at the Small Claims Court was filed by the appellant against the respondent. It sought recovery of a sum of Kshs. 400,000.00, being an unpaid commission, for services rendered. The respondent filed an appearance on 28th February 2024, and a response on 4th March 2024. The claim was resisted; with the contract the basis of the claim being denied.
2. The parties agreed, under section 30 of the *Small Claims Court Act*, Cap 10A, Laws of Kenya, to proceed by way of documents only. Submissions were filed. Judgement was delivered on 16th August 2024, allowing the claim.
3. The appellants were aggrieved, hence this appeal. The grounds are that the court erred in finding that there was a valid contract; failing to evaluate the submissions and the law; failing to adhere to the legal threshold for burden of proof, among others.
4. Directions were taken, on 13th March 2025, for canvassing of the appeal by way of written submissions. Both sides have filed written submissions, which I have read and considered.
5. The starting point for me is with whether the impugned judgement was delivered within the 60-day timeline or jurisdiction, set in section 34(1) of the *Small Claims Court Act*.



6. The original trial court file was not availed, and I am forced to rely exclusively on the record of appeal filed herein. I cannot tell, from the record of appeal, when the claim was filed. The statement of claim was dated 13th December 2023. The appellant appeared on 28th February 2024, and filed a defence or response on 4th March 2024. The first appearance, before the Adjudicator, was on 2nd March 2024, which was attended by the appellant. I shall treat 28th February 2024 as the cut-off date, for the purposes of this judgement.
7. I shall take it that 60 days began to run from 28th February 2024. 60 days, from that date, expired on or before 28th April 2024. Judgement was delivered on 16th August 2024. The trial court had no jurisdiction to determine the matter on 16th August 2024. It should have dropped its tools as far back as April 2024. The judgment, delivered on 16th August 2024, was a nullity. It could not possibly provide a basis for an appeal, challenging it on its merits.
8. Consequently, I do hereby strike out the appeal. I shall not award costs, for the error was on the part of the court.
9. As the suit had been filed within the statutory limitation period, it would be still be live, and viable. It is the Small Claims Court which lost jurisdiction, and that did not take away the cause of action, which had accrued to the respondent.
10. The way out should be with moving the suit away from the Small Claims Court, which has lost jurisdiction, to a court which still has jurisdiction over the matter. Enforcement of contracts, the subject of the suit, also fall within the jurisdiction of the Magistrate's Court and the High Court. The Small Claims Court is meant to relieve the Magistrate's Court, and, therefore, the proper court to transfer the matter to should be the Magistrate's Court.
11. Consequently, I do hereby, in exercise of the supervisory jurisdiction, vested in the High Court, by Article 165(6)(7) of *the Constitution*, order transfer of the suit at the Small Claims Court, being Nairobi SCCC No. E1019 of 2024, from that court, to the Chief Magistrate's Court, at the Milimani Commercial Courts, for hearing and final disposal. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 3RD DAY OF NOVEMBER 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

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

Advocates

Mr. Gakuya, instructed by JO Juma & Company, Advocates for the appellant.

Mr. Muli, instructed by Munyalo Muli & Company, Advocates for the respondent.

