

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL APPEAL NO. E246 OF 2024**

**DANCAN OCHIENG OBUON.....**  
**APPELLANT**

**VERSUS**

**VICTOR OCHIENG.....** **RESPONDENT**

**(Appeal from the judgement and decree, of Hon. VM Mochache, Adjudicator and Senior Resident Magistrate, SRM, of 19<sup>th</sup> January 2024, in Milimani SCCC No. E4125 of 2022)**

**JUDGEMENT**

1. The appeal herein challenges orders made in a ruling that the Small Claims Court delivered on 19<sup>th</sup> January 2024.
2. The original trial court records were not availed, and I am, therefore, unable to determine the date when the claim, at the Small Claims Court, was filed. The statement of claim was dated 22<sup>nd</sup> December 2022. The matter was first mentioned, before an Adjudicator, on 12<sup>th</sup> January 2023. Without evidence, as to when it was filed or initiated, I shall work with 12<sup>th</sup> January 2023, as the effective date.
3. Under section 34(1) of the Small Claims Court Act, Cap 10A, Laws of Kenya, the jurisdiction of the Adjudicator, or of the Small Claims Court, is for 60 days, from the date of filing to the date of final determination. If I take 12<sup>th</sup> January 2023, as the effective date, it would follow that the 60 days expired on or before 12<sup>th</sup> March 2023. Judgment was delivered on 12<sup>th</sup> May 2023, and that was 60 days outside the jurisdiction period. That judgment was a nullity, as the jurisdiction of the Adjudicator, to determine the matter, had lapsed.

4. The ruling of 19<sup>th</sup> January 2024, which is the subject of this appeal, arose from the said judgment. Jurisdiction of the Small Claims Court, having lapsed on 12<sup>th</sup> March 2023, there was no mandate, after that date, to entertain an application challenging a determination made within the 60 days. The determination under challenge, in that review application, dated 15<sup>th</sup> August 2023, was delivered outside jurisdiction.
5. That being the case, there cannot possibly be any valid appeal before me. I cannot, due to lack of mandate, extend the jurisdiction of the Small Claims Court, hence any positive decision I may make, on the orders made on 19<sup>th</sup> January 2024, would only be academic, for it cannot confer jurisdiction upon the Small Claims Court to make a determination outside the 60 days.
6. Consequently, the appeal herein is incompetent. I shall, as I hereby do, strike it out, with costs to the respondent.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN  
CHAMBERS, AT BUSIA, ON THIS 11<sup>TH</sup> DAY OF NOVEMBER  
2025.**

**WM MUSYOKA  
JUDGE**

**Mr. Arthur Etyang, Court Assistant, Busia.**

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

**Dancan Ochieng Obuon, the appellant, in person.**

**Advocates**

**Mr. Nyamange, instructed by MN Ouko Law Advocates,  
Advocates for the respondent.**