



REPUBLIC OF KENYA



**Orodi v Odero & another (Civil Appeal E983 of 2022)
[2025] KEHC 17611 (KLR) (Civ) (26 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 17611 (KLR)

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

CIVIL

CIVIL APPEAL E983 OF 2022

WM MUSYOKA, J

NOVEMBER 26, 2025

BETWEEN

JOHANNES ODHIAMBO ORODI APPELLANT

AND

DAN ONYANGO ODERO 1ST RESPONDENT

MAUREEN AOKO OTIENO 2ND RESPONDENT

(Appeal from the judgement and decree, of Hon. CA Okumu, Adjudicator and Resident Magistrate, RM, of 18th November, 2022 in Milimani SCCCOMM E4374)

JUDGMENT

1. The claim, at the trial court, was by the respondents, against the appellant, seeking a refund of Kshs. 360,000.00, being monies paid to the appellant, by the respondents, for the purposes of an investment, which failed. The appellant resisted the claim, by denying liability.
2. The claim was disposed of orally. Each side presented a witness each. Judgment was delivered, on 18th November 2022, in favour of the respondents.
3. The appellant was aggrieved by the Judgment, hence the appeal herein, on grounds that he had been found liable for the actions of a company in which he was a director, and the amount in respect of which he was found liable.
4. Directions were taken on 2nd May 2025, for canvassing of the appeal, by way of written submissions. Both sides have filed their respective written submissions, which I have read and noted the arguments made.



5. However, before I consider the appeal, on its merits, if at all, I will have to, I need to address a jurisdictional question.
6. From the record, it would appear that the claim was filed on 21st July 2022 and judgement was delivered on 18th November 2022. Under section 34(1) of the *Small Claims Court Act*, Cap 10A, Laws of Kenya, the Adjudicator enjoys a 60-day jurisdiction, to hear and determine the claim. 60 days, counted from 21st July 2022, lapsed on or about 21st September 2022. There was, therefore, no jurisdiction, by dint of section 34(1) of the *Small Claims Court Act*, to make a determination and deliver a judgement on 18th November 2022. The said determination and judgement was a nullity.
7. The appeal herein challenges that bad judgement, on its merits. As the judgement was a nullity, it cannot provide foundation for an appeal challenging it on its merits.
8. As the jurisdiction of the trial court lapsed, before the determination of the matter, the suit was still viable, and it is capable of determination by a court properly vested with jurisdiction. Consequently, I hereby direct that the cause, in Milimani Small Claims Court SCCCOMM E4374 of 2022, shall be transferred from the said registry, to the Magistrate's Court, at the Milimani Commercial Courts, for fresh hearing and final disposal. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 26TH DAY OF NOVEMBER 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

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

Advocates

Mr. Opiyo, instructed by Kilomenn Advocates, Advocates for the appellant.

Ms. Muhu, instructed by Muga & Associates, Advocates for the respondents.

