

record, written submissions by the appellant, which I have read and considered.

5. I shall determine the appeal herein, not on the basis of merit, but jurisdiction.
6. The claim, at the Small Claims Court, was founded on the Small Claims Court Act, Cap 10A, Laws of Kenya. Section 34(1) of the Small Claims Court Act grants the adjudicator a 60-day jurisdiction, from the date of filing, to hear and determine the claim. That would mean any determination, made outside the 60 days, would be null and void, and any appeal, founded on it, would be incompetent, except to the extent that it raises a question of jurisdiction.
7. The claim, in Nairobi SCCCOMM No. E5025 of 2023, was filed on 1st August 2023. 60 days, from 1st August 2023, lapsed on or before 1st October 2023. The final determination, by the trial court, came on 17th November 2023. That was way outside the 60 days allowed by section 34(1) of the Small Claims Court Act, and that determination was a nullity. Consequently, the instant appeal, challenging that invalid judgement, on merits, would be incompetent.
8. The lapse of the jurisdiction, did not render the suit invalid or non-viable. Given that the suit hereby was filed within limitation, the same would still be viable, and can be entertained by the other courts with jurisdiction, such as the Magistrate Court and the High Court.
9. The dispute, before the Small Claims Court, hinged on terms of a contract, around breach. Under the Limitation of Actions Act, Cap 22, Laws of Kenya, the limitation period for such claims is 6 years. The breach herein allegedly occurred in 2023, and the suit was initiated the same year.

10. Consequently, I do hereby order transfer of the said suit, out of the Small Claims Court, to the Magistrate Court, at the Milimani Commercial Courts, for hearing and final disposal. To facilitate that process, I do hereby vacate the proceedings that were conducted by the Small Claims Court. The appeal is hereby resolved in those terms. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN
CHAMBERS, AT BUSIA, ON THIS 4TH DAY OF DECEMBER
2025.**

**WM MUSYOKA
JUDGE**

Mr. Arthur Etyang, Court Assistant, Busia.

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

Advocates

**Mr. Mwangi, instructed by Odhiambo Nyawade & Mwangi,
Advocates for the appellant.**

**Mr. Njeru, instructed by Mola Kimosop & Njeru, Advocates for
the respondent.**