



Cempack Solutions Limited v Ng’ethe t/a Garam Auctioneers & 2 others (Civil Appeal E667 of 2024) [2025] KEHC 18955 (KLR) (Civ) (22 December 2025) (Ruling)

Neutral citation: [2025] KEHC 18955 (KLR)

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

CIVIL

CIVIL APPEAL E667 OF 2024

WM MUSYOKA, J

DECEMBER 22, 2025

BETWEEN

CEMPACK SOLUTIONS LIMITED APPELLANT

AND

ADAM W. NG’ETHE T/A GARAM AUCTIONEERS 1ST RESPONDENT

SUNDRIES BARGAINS LIMITED 2ND RESPONDENT

ARC PACKAGING LIMITED 3RD RESPONDENT

(Appeal from orders made in a ruling delivered by Hon. Mrs. Lucy Ambasi, Chief Magistrate, CM, delivered on 30th April 2024, in Nairobi CMC Misc. Application No. 1269 of 2023)

RULING

1. The dispute, at the trial court, turned on tenancy issues, or a landlord-tenant relationship. It touched on levying of distress to recover rent. It would also appear that the same was related to another dispute, in ELC No. E344 of 2022, no doubt turning on environment and land issues.
2. Leases and tenancies are about use and occupation of land. Disputes, around them, would fall outside of the jurisdiction of the High Court, by dint of Article 165(5) of *the Constitution*, for the court, with jurisdiction, would be the Environment and Land Court, by dint of Article 162(2) of *the Constitution*.
3. Additionally, leases and tenancies are provided for under the *Land Act*, Cap 280, Laws of Kenya. The court for the purposes of the matters the subject of the *Land Act*, including leases and tenancies, is the Environment and Land Court, by virtue of sections 2 and 150 of the said Act.



4. That being the case, the High Court has no jurisdiction over these matters, and, therefore, by extension, it has no jurisdiction over the instant appeal. The instant appeal ought to have been filed at the Environment and Land Court.
5. Owners of the Motor Vessel “Lillian S” vs. Caltex Oil (Kenya) Ltd [1989] KLR 1 [1989] eKLR [1989] KECA 48 (KLR) (Nyarangi, Masime & Kwach, JJA) requires me to down tools, if I find myself faced with a matter in respect of which I am bereft of jurisdiction. Should I do so here, and dismiss the appeal?
6. I am conscious of the fact that Owners of the Motor Vessel “Lillian S” vs. Caltex Oil (Kenya) Ltd [1989] KLR 1 [1989] eKLR [1989] KECA 48 (KLR) (Nyarangi, Masime & Kwach, JJA) was decided prior to the promulgation of the current Constitution, in 2010, whose provisions lean towards substantive justice and people-centredness. To down tools would cause hardship, yet the matter can be handled by another court, which has jurisdiction, provided that I transfer it there.
7. Consequently, I do hereby order transfer of the appeal herein, to the Environment and Land Court, at Nairobi, for hearing and final disposal. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 22ND DAY OF DECEMBER 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

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

Advocates

Mr. Rachier, instructed by Rachier & Amollo LLP, Advocates for the appellant.

Mr. Ng’ethe, instructed by Prof. Albert Mumma & Company, Advocates for the 1st and 2nd respondents.

Ahmednasir Abdullahi Advocates LLP, for the 3rd respondent.

